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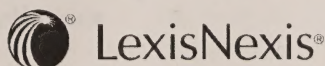
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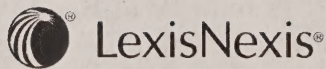
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TITLE 3

ALCOHOLIC BEVERAGES

CHAPTER.

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CHAPTER 1

GENERAL PROVISIONS

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nancy — Definition.

3-1-102. Definitions.

(a) As used in this title unless otherwise provided:

(1) “Block” means the area on both sides of that portion of a street lying between intersecting streets and extending back, on both sides, halfway to the next parallel street;

(2) “Dispensary” means any store which, under the provisions of this title unless otherwise provided and having paid all taxes required by the state, sells at retail, in unbroken packages, for consumption off the premises, any intoxicating alcoholic liquor as defined by this title unless otherwise provided;

(3) “Excluded felony offense” means:

(A)(i) A felony offense as determined by the jurisdiction where the felony offense occurred.

(ii) The Alcoholic Beverage Control Division shall determine whether an offense is a felony offense based upon a review of the relevant court records concerning the conviction for the offense; or

(B) A violation of a state or federal controlled-substance law that was classified as a felony in the jurisdiction where the person was convicted, but not including:

(i) An offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed ten (10) or more years earlier; or

(ii) An offense that has been sealed by a court or for which a pardon has been granted;

(4) “Hard cider” means liquor brewed from the fermented juices of fruit and containing more than three percent (3%) and not more than twenty-one percent (21%) of alcohol by weight;

(5)(A) “Malt” means liquor brewed from the fermented juices of grain and containing more than five percent (5%) of alcohol by weight.

(B) Beer containing not more than five percent (5%) of alcohol by weight and all other malt beverages containing not more than five percent (5%) of alcohol by weight are not defined as “malt liquors” and are excepted from each and every provision of this act;

(6) “Manufacturer” means any person engaged in the business of distilling, brewing, making, blending, rectifying, or producing for sale in wholesale quantities alcoholic liquors of any kind, including whiskey, brandy, cordials, liquors, ales, beers, hard cider, or other liquids containing alcohol, except wines;

(7) “Person” means any and all corporations, partnerships, associations, or individuals;

(8) “Sealed” means to expunge, remove, sequester, and treat as confidential the record or records of a felony offense;

(9) “Spirituous” means liquor distilled from the fermented juices of grain, fruits, or vegetables and containing more than twenty-one percent (21%) of alcohol by weight, or any other liquids containing more than twenty-one percent (21%) of alcohol by weight; and

(10) “Vinous” means the fermented juices of fruits, except native wine, containing more than five percent (5%) and not more than twenty-one percent (21%) of alcohol by weight.

(b) All other words used in this act shall be defined according to the statutes in such case made and provided, if any, and otherwise shall be defined according to the custom and usage of the people of Arkansas.

History. Acts 1935, No. 108, Art. 1, §§ 1-3, 5-7; Pope’s Dig., §§ 14094-14096, 14098-14100; A.S.A. 1947, §§ 48-102 — 48-104, 48-106 — 48-108; Acts 2015, No. 1237, § 1; 2017, No. 739, § 1; 2019, No. 691, § 2.

Amendments. The 2019 amendment inserted “hard cider” in (6).

3-1-103. Exempted products.

(a)(1) The provisions of this act shall not in any manner be construed to apply to the manufacture, sale, and distribution of wines or vinous liquors manufactured, sold, and distributed by residents of Arkansas.

(2) All wines or vinous liquors which shall be manufactured without the confines of this state shall be legally sold, imported, transported, possessed, and consumed only upon payment of the same privilege and excise taxes as provided for all other alcoholic liquors which are included and legalized under the provisions of this act, and traffic in such vinous liquors shall be subject to all rules provided herein.

(b) Malt and vinous beverages containing more than three and two-tenths percent (3.2%) of alcohol by weight and not more than five

percent (5%) of alcohol by weight shall be taxed and regulated as provided for malt and vinous beverages containing not more than three and two-tenths percent (3.2%) alcohol by weight under the provisions of chapter 5, subchapter 2 of this title.

(c)(1) After having been manufactured and prepared for the market, the articles enumerated in this subsection are not subject to this act:

(A) Denatured alcohol or denatured rum produced and used as provided by laws and regulations now or hereinafter in force;

(B) Medicinal preparations manufactured in accordance with formulae prescribed in the United States Pharmacopoeia — National Formulary, or by the American Institute of Homeopathy that are unfit for the use for beverage purposes;

(C) Patented, patent, and proprietary medicines that are unfit for use for beverage purposes;

(D) Toilet, medicinal, and antiseptic preparations and solutions that are unfit for use for beverage purposes;

(E) Flavoring extracts and syrups that are unfit for use as a beverage or for intoxicating beverage purposes;

(F) Vinegar and preserved sweet cider;

(G) Alcohol medicated according to such formulae as will render it unfit for beverage purposes and which is to be sold for legitimate external use;

(H) Alcohol for mechanical and scientific purposes if unfit for a beverage;

(I) Wines; and

(J) Confectionery containing less than five percent (5%) by volume of alcohol, if the alcohol is in a nonliquid form as a result of being mixed with other substances.

(2) Any person who manufactures, purchases, or possesses any of the articles mentioned in this subsection or preparations fit for beverage purposes which are authorized to be manufactured, which may be used in the manufacture of other preparations compounded in accordance with formulae prescribed in the United States Pharmacopoeia — National Formulary, or by the American Institute of Homeopathy, which preparations when so manufactured are unfit for use for beverage purposes, or in the manufacture of patented, patent, and proprietary or other medicines, or for physicians' prescriptions, which are unfit for use for beverage purposes, may purchase and possess liquors for that purpose. Such person shall keep such records as are required by the Director of the Alcoholic Beverage Control Division.

(3) No such manufacturer shall sell, use, or dispose of any liquor otherwise than as an ingredient of the articles authorized to be manufactured therefrom.

(4) No more alcohol shall be used in the manufacture of any syrup or extract than the quantity necessary for the extraction or solution of the elements mentioned therein and for the preservation of the article.

(5) The provisions of this act shall not apply to pure, ethyl, or denatured alcohol intended for use or used for scientific, chemical,

mechanical, industrial, medicinal, or culinary purposes or for use in the manufacture of patented, patent, proprietary, medicinal, pharmaceutical, antiseptic, toilet, scientific, chemical, mechanical, and industrial preparations or products, unfit for beverage purposes. Any person taking advantage of this subsection shall keep any records as are required by the director.

(6) Any person who shall knowingly sell any of the articles mentioned in this subsection for beverage purposes or any extract or syrup for intoxicating beverage purposes, or who shall sell any of the same under circumstances for which the seller might reasonably deduce the intention of the purchaser to use them for such purpose, shall be subject to the penalties provided in this act.

History. Acts 1935, No. 108, Art. 1, § 6; 1935, No. 108, Art. 3, § 21; 1935, No. 108, Art. 8, § 2; Pope’s Dig., §§ 14099, 14126, 14171; A.S.A. 1947, §§ 48-107, 48-109, 48-110; Acts 2017, No. 1035, § 1; 2019, No. 315, § 31.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (a)(2).

3-1-105. Posting of warning signs relating to drinking alcoholic beverages during pregnancy — Definition.

(a) A person that has received a permit from the Alcoholic Beverage Control Board to sell or dispense alcoholic beverages shall post in a conspicuous place at the permitted premises a printed sign warning of the dangers of drinking alcoholic beverages during pregnancy that meets the requirements under § 3-9-102.

(b) As used in this section, “alcoholic beverages” means all beverages containing more than one-half of one percent (0.5%) of alcohol by weight.

History. Acts 2019, No. 860, § 1.

CHAPTER 2

ADMINISTRATION AND ENFORCEMENT

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 2. PRIMARY REGULATORY AGENCIES.
- 3. OTHER ENFORCING AGENCIES.
- 4. DISTRIBUTION.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

3-2-101. Interest of enforcement officers in alcoholic liquors prohibited.

SECTION.

3-2-104. Definition of “schoolhouse”.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

3-2-101. Interest of enforcement officers in alcoholic liquors prohibited.

(a) Neither the Secretary of the Department of Finance and Administration nor any officer, employee, deputy, or assistant thereof shall have any direct or indirect interest in or on any premises where alcoholic liquors are manufactured or sold, nor shall he or she have any direct or indirect interest in any business wholly or partially devoted to the manufacture or sale of alcoholic liquors or own any stock in any corporation which has any direct or indirect interest in the premises where alcoholic liquors are manufactured or sold or in any business wholly or partially devoted to the manufacture or sale of alcoholic liquors.

(b) Any person violating any provision of this section shall, in addition to the penalty provided in this act, forfeit his or her office or employment or be removed therefrom.

History. Acts 1935, No. 108, Art. 2, § 2; Pope's Dig., § 14103; A.S.A. 1947, § 48-202; Acts 2019, No. 910, § 3299.

Amendments. The 2019 amendment substituted "Secretary" for "Director" in (a).

3-2-104. Definition of "schoolhouse".

(a) For all businesses regulated under this title by the Alcoholic Beverage Control Board that are licensed or permitted after July 24, 2019, "schoolhouse" means:

(1) A facility owned and operated by a public or private school or an open-enrollment charter school; and

(2) A public or private daycare facility licensed by the State of Arkansas.

(b) "Schoolhouse" does not include a home school.

History. Acts 2019, No. 983, § 1.

SUBCHAPTER 2 — PRIMARY REGULATORY AGENCIES

SECTION.

- 3-2-201. Alcoholic Beverage Control Board.
- 3-2-202. Director of Alcoholic Beverage Control — Staff.
- 3-2-203. Enforcement division — Director and staff.
- 3-2-204. Seals — Authentication of records.

SECTION.

- 3-2-205. Powers and duties.
- 3-2-206. Rules.
- 3-2-212. Denial, suspension, or revocation of licenses — Proceedings before division.
- 3-2-213. Denial, suspension, or revocation of license — Appeal to board.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

3-2-201. Alcoholic Beverage Control Board.

- (a) There is created an Alcoholic Beverage Control Board.
- (b) The board shall consist of five (5) persons appointed by the Governor, subject to confirmation by the Senate, for a term of six (6) years.
- (c) The Chair of the Alcoholic Beverage Control Board shall be designated by the Governor and may be removed as chair at any time by the Governor.
- (d) All action by the board shall be by a majority vote of the full membership of the board.
- (e) The board shall take no official action in connection with any matter except at a regular or special meeting in the office of the board at Little Rock, Arkansas.
- (f) The board is charged with the management of the Alcoholic Beverage Control Division.
- (g) In addition to any other powers, duties, and authority, the board shall be vested with the additional authority to establish written policies for the enforcement, by the Alcoholic Beverage Control Enforcement Division, of the laws and rules affecting alcoholic beverage control.
- (h) The board shall have the power of review over the actions of the head of the enforcement division and its employees, including all disciplinary actions taken by the head of the division against any

division employee and may, in any particular case, reverse such actions for good cause.

(i) The members of the board may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

History. Acts 1953, No. 109, § 2; 1955, 1314.2, 48-1317.1; Acts 1997, No. 250, No. 113, §§ 2, 3; 1971, No. 343, § 1; 1981, § 10; 2019, No. 315, § 32.
No. 45, § 9; 1981, No. 790, § 8; A.S.A. **Amendments.** The 2019 amendment 1947, §§ 48-1302.1 — 48-1302.3, 48- substituted “rules” for “regulations” in (g).

3-2-202. Director of Alcoholic Beverage Control — Staff.

(a) The Director of Alcoholic Beverage Control shall be an attorney duly authorized to practice law by the Supreme Court, who shall present all evidence tending to prove violations of the law or rules at hearings held by the Alcoholic Beverage Control Board.

(b) The director shall employ such other personnel as he or she may deem necessary and as may be authorized by the General Assembly.

(c) All personnel employed by the director shall be subject to the approval of the board.

(d) Any person employed by the director may be removed by him or her at any time subject to the approval of the board.

History. Acts 1951, No. 159, § 4; A.S.A. **Amendments.** The 2019 amendment 1947, § 48-1304; Acts 2019, No. 315, § 33. substituted “rules” for “regulations” in (a).

3-2-203. Enforcement division — Director and staff.

(a) The Director of the Alcoholic Beverage Control Enforcement Division shall be appointed by the Secretary of the Department of Finance and Administration and shall serve at the pleasure of the secretary.

(b) All enforcement personnel of the division shall be named by the director.

History. Acts 1977, No. 941, § 1; 1981, No. 45, § 9; 1983, No. 930, § 7; 1985, No. 297, § 1; A.S.A. 1947, §§ 48-1317.1, 48-1322; Acts 2001, No. 196, § 1; 2019, No. 910, § 3300. **Amendments.** The 2019 amendment substituted “Secretary” for “Director” twice in (a).

3-2-204. Seals — Authentication of records.

(a) The Director of the Alcoholic Beverage Control Division and the Alcoholic Beverage Control Board each may adopt, keep, and use a common seal. This seal shall be used for authentication of the records, process, and proceedings of the director and board, respectively. Judicial notice shall be taken of each of these seals in all of the courts of the state.

(b) Any process, notice, or other paper which the director may be authorized by law to issue shall be deemed sufficient if signed by the director and authenticated by the seal of the director.

(c) Any process, notice, or other paper which the board may be authorized by law to issue shall be deemed sufficient if signed by the Chair of the Alcoholic Beverage Control Board and authenticated by the seal of the board.

(d) All acts, orders, proceedings, rules, entries, minutes, and other records of the director and all reports and documents filed with the director may be proved in any court of this state by copy thereof, certified by the director with the seal of the director attached.

(e) All acts, orders, proceedings, rules, entries, minutes, and other records of the board and all reports and documents filed with the director may be proved in any court of this state by copy thereof, certified by the chair of the board with the seal of the board attached.

History. Acts 1951, No. 159, § 10; A.S.A. 1947, § 48-1309; Acts 2019, No. 315, § 34. **Amendments.** The 2019 amendment deleted "regulations" following "rules" in (d) and (e).

3-2-205. Powers and duties.

(a) The Alcoholic Beverage Control Division and the Alcoholic Beverage Control Enforcement Division shall have full responsibility for all phases of alcoholic beverage control in Arkansas.

(b) The Alcoholic Beverage Control Division shall have the following powers, functions, and duties:

(1) To fix by rule the standards of manufacturing, rectifying, and blending in order to ensure the use of proper ingredients and methods in the manufacturing, rectifying, and blending of vinous, spirituous, or malt liquors to be sold in the state;

(2) To adopt rules for the supervision and control of the manufacture and sale of vinous (except wines), spirituous, or malt liquors throughout the state not inconsistent with law;

(3) To prescribe forms of applications for permits under this act and of all periodic reports deemed necessary to be made by any permittee;

(4) To fix the hours during which vinous, spirituous, or malt liquors may be sold or dispensed at retail, as provided by this act;

(5)(A) To keep records in proper form, to be prescribed by the Director of the Alcoholic Beverage Control Division and the Secretary of the Department of Finance and Administration, of all permits issued and all permits revoked under the provisions of this act and to keep records in such form so as to provide ready information as to the identity of all permit holders, including the names of stockholders who are not exempted under subdivision (b)(5)(B) of this section, and directors of corporations holding permits, and also the location of all permitted premises.

(B) The Alcoholic Beverage Control Division is not required to keep a record of the names of shareholders who are not the president or a director when the corporation:

(i) Is publicly traded on a nationally recognized stock exchange; or

(ii) Holds at least ten (10) permits issued by the Alcoholic Beverage Control Division for the sale of alcoholic beverages; and

(6) To adopt rules for the supervision and control of nonresident beer sellers' permits.

(c) The Director of the Alcoholic Beverage Control Division shall have the following powers, functions, and duties:

(1) To receive applications for and to issue, refuse, suspend, and revoke licenses to manufacturers, processors, distributors, wholesalers, retailers, and transporters of alcoholic beverages;

(2) To call upon other administrative departments of the state, county, and city governments, sheriffs, city police departments, city marshals, and peace officers for such information and assistance as the Director of the Alcoholic Beverage Control Division may deem necessary in the performance of the duties imposed upon him or her by this subchapter;

(3) To inspect or cause to be inspected any premises where alcoholic beverages are manufactured, distributed, or sold;

(4) In the conduct of any hearing:

(A) To examine or cause to be examined under oath any person, and examine or cause to be examined books and records of any licensee;

(B) To hear testimony and to take proof material for his or her information and the discharge of his or her duties hereunder;

(C) To administer or cause to be administered oaths; and

(D) For any such purposes, to issue subpoenas to require the attendance of witnesses and the production of books. These subpoenas shall be effective in any part of this state. Any circuit court, either in term time or vacation, by order duly entered may require the attendance of witnesses or the production of relevant books subpoenaed by the Director of the Alcoholic Beverage Control Division, and the court may compel obedience to its order by proceedings for contempt;

(5) Such other powers, functions, and duties as are or may be imposed or conferred upon him or her by law; and

(6) Any other powers, functions, and duties pertaining to the control of alcoholic beverages which previously were granted to the secretary and which are not specifically delegated to the Alcoholic Beverage Control Board by the provisions of this subchapter.

(d) The Director of the Alcoholic Beverage Control Enforcement Division shall have the following functions, powers, and duties:

(1) To call upon other administrative departments of the state, county, and city governments, sheriffs, city police departments, city marshals, and peace officers for such information and assistance as he or she may deem necessary in the performance of the duties imposed upon the Director of the Alcoholic Beverage Control Division by this subchapter;

(2) To inspect or cause to be inspected any premises where alcoholic beverages are manufactured, distributed, or sold;

(3) Such other powers, functions, and duties as are or may be imposed or conferred upon him or her by law; and

(4) Any other powers, functions, and duties pertaining to the control of alcoholic beverages which previously were granted to the secretary and which are not specifically delegated to the Director of the Alcoholic Beverage Control Division or the board by the provisions of this subchapter.

(e)(1) The power and duty to collect taxes imposed on alcoholic beverages and to collect permit and license fees levied for the privilege of manufacturing, processing, selling, and transporting alcoholic beverages is specifically excepted from the powers and duties granted or assigned to the Alcoholic Beverage Control Division and the Alcoholic Beverage Control Enforcement Division. Provided, however, the permit or license holders' failure to pay taxes imposed on alcoholic beverages or any state or local gross receipts and compensating use taxes in a timely manner shall be grounds for the revocation or nonrenewal of their permits or licenses by the board.

(2) The collection of all such taxes and permit or license fees shall be by the secretary and his or her agents and employees, as provided by law.

(3) The secretary shall make a biennial report to the Governor and the General Assembly of his or her activities for the past year, which shall include statistics as to the amount of vinous (except wines), spirituous, or malt liquors manufactured in the State of Arkansas and the disposition thereof; the increase or decrease in their consumption over the preceding year; the amount of taxes and permit fees collected; and such other information as he or she deems advisable.

(4) The secretary shall report by June 1 of each year to the Alcoholic Beverage Control Division and the board any and all permit and license holders who are more than ninety (90) days delinquent on any alcoholic beverage sales tax, excise tax, supplemental mixed drink tax, any other tax relating to the sale or dispensing of alcoholic beverages, or any state or local gross receipts or compensating use taxes.

History. Acts 1935, No. 108, Art. 2, § 3; Pope's Dig., § 14104; Acts 1951, No. 159, §§ 6, 11; A.S.A. 1947, §§ 48-203, 48-1305, 48-1310; Acts 1993, No. 779, § 1; 1995, No. 537, § 11; 2013, No. 325, § 1; 2019, No. 315, §§ 35, 36; 2019, No. 910, §§ 3301-3304.

Amendments. The 2019 amendment by No. 315 deleted "and regulations" following "rules" in (b)(2) and (b)(6).

The 2019 amendment by No. 910 substituted "Secretary" for "Director" throughout (b) through (e).

3-2-206. Rules.

(a) The Director of the Alcoholic Beverage Control Division shall adopt and promulgate such rules as shall be necessary to carry out the intent and purposes of this subchapter and any other alcohol control acts enforced in this state.

(b) All rules of general application, including the amendment or repeal thereof, shall first be submitted by the director to the Alcoholic Beverage Control Board for its approval and upon approval shall be filed in the office of the Secretary of State.

(c) All the valid rules adopted under the provisions of this subchapter shall be absolutely binding upon all licensees and enforceable by the director through the power of suspension or cancellation of licenses.

(d) It is intended by this grant of power to adopt rules that the director shall be clothed with broad discretionary power to govern the traffic in alcoholic liquor and to enforce strictly all the provisions of the alcohol control laws of this state.

(e) The Alcoholic Beverage Control Division is authorized to assess a rule book fee which shall not exceed ten dollars (\$10.00) for each rule book.

(f) A rule promulgated under this title that prohibits a person from possessing an alcoholic beverage outside of an establishment that holds a permit for on-premises consumption and from which the alcoholic beverage was purchased does not apply within a designated entertainment district as defined in § 14-54-1412.

History. Acts 1951, No. 159, § 12; A.S.A. 1947, § 48-1311; Acts 2013, No. 1318, § 1; 2019, No. 315, § 37; 2019, No. 812, § 1.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” fol-

lowing “rules” in the section heading and in (a) through (d); and substituted “rule” for “regulation” twice in (e).

The 2019 amendment by No. 812 added (f).

3-2-212. Denial, suspension, or revocation of licenses — Proceedings before division.

(a) All proceedings for the suspension and revocation of licenses shall be before the Director of the Alcoholic Beverage Control Division.

(b) The proceedings shall be in accordance with rules established by the director and not inconsistent with law.

(c) No license shall be revoked except after a hearing by the director with reasonable notice to the licensee and an opportunity to appear and defend.

(d) However, the director shall not be bound by the legal rules of evidence in conducting hearings and in making his or her decisions and may take into consideration any testimony, papers, or documents which he or she may deem relevant to the issue.

(e)(1) Whenever the director shall refuse an application for any license or shall suspend or revoke any license, he or she shall prepare an order so providing which shall be signed by the director or some person designated by him or her, and the seal of the director shall be affixed thereto.

(2) The order shall be mailed by registered mail by the director to the applicant at the address as shown on the application or to the licensee at the address of the premises licensed, as the case may be.

(3) The order shall be final and binding on all parties until the order has been appealed as provided for in § 3-2-213 and a decision has been rendered by the Alcoholic Beverage Control Board.

History. Acts 1951, No. 159, §§ 13, 14; A.S.A. 1947, §§ 48-1312, 48-1313; Acts 2019, No. 315, § 38.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (b).

3-2-213. Denial, suspension, or revocation of license — Appeal to board.

(a)(1) Any applicant or licensee aggrieved by an order of refusal, suspension, or revocation issued by the Director of the Alcoholic Beverage Control Division or any person or group of persons who have formally protested the issuance of any license before a decision has been rendered by the director and are aggrieved by the issuance of the license may appeal the order or decision to the Alcoholic Beverage Control Board by filing a notice of appeal.

(2) The notice of appeal of a director’s decision or order shall be in a written form which shall be mailed or delivered to the offices of the Alcoholic Beverage Control Division.

(3) The notice of appeal must be mailed or delivered to the offices of the division within fifteen (15) days after the order to be appealed was received by the recipient, as shown by the certified mail return receipt card returned to the division. In the event that the person filing an appeal of the director’s decision or order was not sent a certified letter of the same, then the fifteen-day appeal period begins on the date that the director’s decision or order was issued.

(4) Whenever any notice of appeal is filed with the division, the director shall immediately notify the board of that fact.

(b)(1) A hearing shall be held within at least sixty (60) days after the date of the filing of the notice of appeal unless the person appealing consents to a later hearing.

(2) Not later than ten (10) days before the time fixed for the hearing, the director shall notify the board and the applicant, licensee, or protester of the time when and the place where the appeal shall be heard by the board.

(3) At the time and place so fixed for the hearing, the board shall proceed to hear the appeal.

(4) At any such hearing the applicant, licensee, or protester, and the director may be present in person or by agent or counsel and present evidence and argument.

(5) The board shall adopt such rules as it shall deem necessary to govern the procedure in the hearing, and the board shall not be bound by the legal rules of evidence in hearing appeals and in making its determination.

(c)(1) Within five (5) days after the hearing is concluded, the board shall render its written opinion, decision, or order on the appeal.

(2) A copy of the opinion, decision, or order shall be mailed by the division by certified mail to the applicant, licensee, or protester.

(3) The order and decision shall be final and binding on the director and the applicant, licensee, or protester.

(4) However, an appeal may be taken from any order suspending or revoking a license as provided for in this subchapter.

History. Acts 1951, No. 159, § 15; A.S.A. 1947, § 48-1314; Acts 1995, No. 652, §§ 1-5; 2005, No. 1193, § 1; 2019, No. 315, § 39.

Amendments. The 2019 amendment deleted “and regulations” following “such rules” in (b)(5).

SUBCHAPTER 3 — OTHER ENFORCING AGENCIES

SECTION.

3-2-303. Authority of the Division of Arkansas State Police.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

3-2-303. Authority of the Division of Arkansas State Police.

(a) In addition to the duties otherwise prescribed by law upon the Division of Arkansas State Police, it shall be the duty of the division to assist in enforcing all of the laws of the State of Arkansas against the unlawful manufacture or sale of intoxicating liquors.

(b)(1) The Director of the Division of Arkansas State Police, the Deputy Director of the Division of Arkansas State Police, captains, lieutenants, rangers, and other employees of the director shall perform such duties as may be prescribed by the director with respect to the enforcement of the laws, and they shall have authority to take affidavits and to swear the persons signing the affidavits with respect to the violation of any law.

(2) The false swearing or making of the affidavits shall be deemed and punished as perjury.

(c)(1) The director, deputy director, captains, lieutenants, and rangers shall have all of the authority now vested in sheriffs and police officers to search for and seize intoxicating liquors unlawfully held in this state.

(2) They shall also have the same authority to make arrests for the violation of such laws and to serve any and all kinds of criminal process issued by any of the courts in this state in connection with the enforcement of such laws.

History. Acts 1935, No. 132, § 1; Pope’s Dig., § 14236; A.S.A. 1947, § 48-1101; Acts 2019, No. 910, § 5734.
Amendments. The 2019 amendment substituted “Division of Arkansas State

Police” for “Department of Arkansas State Police” in (a) and twice in (b)(1); and substituted “division” for “department” in (a).

SUBCHAPTER 4 — DISTRIBUTION

SECTION.

3-2-404. Request to change wholesalers — Contents of application.
3-2-406. Request to change wholesalers — Hearing — Time — Findings — Appeal.

SECTION.

3-2-412. Dual distributorship prohibited — Definition.

3-2-404. Request to change wholesalers — Contents of application.

Any distiller, manufacturer, importer, or producer desiring to change wholesalers with respect to any brand shall file with the Director of the Alcoholic Beverage Control Division a wholesaler change request containing the following information as applicable:

- (1) The name of each brand involved;
- (2) The case volume in Arkansas for each brand for the current year or portion thereof and the two (2) previous calendar years;
- (3) The name of the wholesaler currently distributing such brand;
- (4) The name of the proposed new wholesaler; and
- (5)(A) A detailed explanation of the specific business reasons for the request to change wholesalers.

(B) Business reasons which may be considered by the director in determining good cause for authorizing a change of wholesalers will include:

- (i) A wholesaler’s bankruptcy or serious financial instability, including its consistent failure to pay its debts as they fall due or its failure to meet or maintain any objective standards of capitalization expressly agreed to between the wholesaler and the distiller, manufacturer, importer, or producer, provided such standards are determined by the director to be commercially reasonable;
- (ii) A wholesaler’s repeated violations of any provision of federal or state law, rule, or regulation, whether or not such violations resulted in official action;
- (iii) A wholesaler’s failure to maintain reasonable sales volume of the brand, taking into consideration such factors as the extent of the distiller’s, manufacturer’s, importer’s, or producer’s advertising and promotion of the particular brand, prevailing economic conditions affecting sales generally, or the extent of the wholesaler’s efforts, or lack thereof, to promote a particular brand; and
- (iv) Any other factors relevant to such proposed change and which aid the director in determining good cause.

History. Acts 1991, No. 260, § 3; 2019, No. 315, § 40.

Amendments. The 2019 amendment substituted “federal or state law, rule, or

regulation” for “federal or state law or regulations” in (5)(B)(ii).

3-2-406. Request to change wholesalers — Hearing — Time — Findings — Appeal.

(a) Any hearing held by the Director of the Alcoholic Beverage Control Division pursuant to the provisions of § 3-2-405 shall be held within thirty (30) days after the receipt of any notice of objection to a wholesaler change request.

(b) The findings of the director made after such hearing shall be presented to the Alcoholic Beverage Control Board at its next regularly scheduled meeting.

(c) Any aggrieved party may appeal the decision of the director to the full board to be heard de novo and any such appeal hearing will be scheduled and held pursuant to hearing procedures established for the Alcoholic Beverage Control Division by state law and division rules.

History. Acts 1991, No. 260, § 5; 2019, No. 315, § 41.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (c).

3-2-412. Dual distributorship prohibited — Definition.

(a)(1) The creation of a dual distributorship is prohibited.

(2) An unlawful dual distributorship is created whenever any manufacturer designates as its distributor more than one (1) Arkansas liquor wholesaler in the state or wholesale beer permit holder to distribute the same brand of alcoholic beverage in the same geographical territory, whether a city, a county, counties, or the state.

(b) In addition to any remedies to any aggrieved party authorized by law, the Director of the Alcoholic Beverage Control Division may withdraw approval of any and all brands registered by any manufacturer found to be in violation of this subchapter, such findings to be made after a hearing pursuant to hearing procedures established for the Alcoholic Beverage Control Division by state law and administrative rules.

(c)(1) For the purposes of this subchapter, a “brand” means the same product or substantially the same product as evidenced by the product label that must be filed with the division.

(2) Identical or substantially identical labels will be considered and treated as the same brand.

History. Acts 1991, No. 260, § 9; 2019, No. 315, § 42.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (b).

CHAPTER 3

PROHIBITED PRACTICES

SUBCHAPTER.

2. PARTICULAR PRACTICES PROHIBITED.

SUBCHAPTER.

3. DRY TERRITORIES.

SUBCHAPTER 2 — PARTICULAR PRACTICES PROHIBITED

SECTION.

3-3-212. Manufacturer-seller relationships generally.

3-3-213. Manufacturer-seller relationships — Exclusivity agreements — Definitions.

SECTION.

3-3-218. Duty of care of privilege license holders — Enforcement.

3-3-212. Manufacturer-seller relationships generally.

(a) It shall be unlawful for a manufacturer to:

(1) Be interested, directly or indirectly, in any premises where malt, vinous, or spirituous liquors are sold at retail or in any business devoted wholly or partially to the sale of such liquors at retail, by stock ownership, interlocking directors, mortgage or lien on any personal or real property, or any other means; or

(2) Make any loan to any owner.

(b)(1) Any lien, mortgage, or other interest or estate, however, now held by a manufacturer on or in the personal or real property of any owner, which mortgage, lien, interest, or estate was acquired on or before December 31, 1933, shall not be included within the provisions of this section.

(2) The burden of establishing the time of the accrual of the interest, comprehended by subdivision (b)(1) of this section, shall be upon the person who claims to be entitled to the protection and exemption afforded by this section.

(c) Subsections (a) and (b) of this section shall not apply to an agreement or arrangement by:

(1) A manufacturer or wholesaler to pay for the display or other presentation of advertising and promotional material on or about the premises of the holder of a franchise granted by the Arkansas Racing Commission; or

(2) A manufacturer providing sponsorship of or payment for the display or other presentation of advertising and promotional material on or about the premises of a large attendance facility, as defined by § 3-9-202(16), owned by a qualifying charitable nonprofit organization that has received tax-exempt status under 26 U.S.C. § 501(c)(3), as in effect on January 1, 2019.

History. Acts 1935, No. 108, Art. 3, § 18; Pope's Dig., § 14122; A.S.A. 1947, § 48-908; Acts 2001, No. 1838, § 1; 2019, No. 744, § 1.

Amendments. The 2019 amendment substituted "an" for "any" in the introductory language of (c); added the designation for (c)(1); and added (c)(2).

3-3-213. Manufacturer-seller relationships — Exclusivity agreements — Definitions.

(a) It shall be unlawful for any person engaged in the manufacture of alcoholic liquors:

(1) To require any wholesaler or retailer to purchase from that manufacturer to the exclusion, in whole or in part, of any alcoholic liquors sold or offered for sale by other persons; or

(2) To induce any retailer to purchase from that manufacturer or wholesaler to the exclusion, in whole or in part, of any alcoholic liquors sold or offered for sale by other persons, by:

(A) Acquiring any interest in property owned, occupied, or used by the retailer in his or her business, or in any license with respect to the premises of the retailer; or

(B) Furnishing, giving, renting, lending, or selling to the retailer any equipment, fixtures, signs, supplies, money, service, or other thing of value, subject to exceptions provided by the rules of the Alcoholic Beverage Control Board and established trade customs; or

(C) Paying or crediting the retailer for any advertising, display, or distribution service; or

(D) Guaranteeing any loan or the repayment of any financial obligation of the retailer; or

(E) Offering or giving any bonus, premium, or compensation to the retailer or any of his or her officers, employees, or representatives.

(b) As used in this section, unless the context otherwise requires:

(1) “Person” includes any and all corporations, partnerships, associations, or individuals and all agents, representatives, or employees of such persons; and

(2) “Manufacturer” means, unless otherwise specified, any person engaged in the business of distilling, brewing, making, blending, rectifying, or producing for sale in wholesale quantities alcoholic liquors of any kind, including whiskey, brandy, cordials, liquors, and other liquids containing alcohol, except patent medicines, beer, and wine.

History. Acts 1953, No. 362, §§ 1, 3; A.S.A. 1947, § 48-952; Acts 2019, No. 315, § 43.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (a)(2)(B).

3-3-218. Duty of care of privilege license holders — Enforcement.

(a) It is the specifically declared policy of the General Assembly that all licenses issued to establishments for the sale or dispensing of alcoholic beverages are privilege licenses, and the holder of such privilege license is to be held to a high duty of care in the operation of the licensed establishment.

(b) It is the duty of every holder of an alcoholic beverage permit issued by the State of Arkansas to operate the business wherein alcoholic beverages are sold or dispensed in a manner which is in the public interest and does not endanger the public health, welfare, or

safety. Failure to maintain this duty of care shall be a violation of this section and grounds for administrative sanctions being taken against the holder of the permit or permits.

(c)(1) The standard of review for the Director of the Alcoholic Beverage Control Division and the Alcoholic Beverage Control Board in matters arising herein shall be:

(A) Whether the permitted outlet, as it has been operated, promotes the public convenience and advantage;

(B) Whether the continuation of the outlet would promote the public interest; and

(C) Whether the outlet's business operation endangers the public health, welfare, or safety of the area or community in which it is located.

(2) It is specifically granted to the director and the board the power to review the outlet and its operation as if it were a new application, taking into consideration all factors involved in the review of an application as initially filed before the agency.

(d)(1) As to all violations occurring inside the permitted premises, the standard of proof shall be by substantial evidence.

(2) As to all violations occurring outside the permitted premises, the standard of proof shall be by clear and convincing evidence.

(e) The Alcoholic Beverage Control Division and its board are hereby authorized to adopt rules to implement each and every provision of this section.

(f) The director and the board are empowered by this section to administer the full range of penalties available for other administrative proceedings before it, including, but not limited to, fines, suspension, cancellation, or revocation of such permits which have been found to endanger the public health, welfare, or safety.

History. Acts 1989, No. 695, § 1; 2003, No. 1756, § 1; 2019, No. 315, § 44.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (e).

CASE NOTES

Cited: Brennan v. White Cty., 2019 Ark. App. 146, 573 S.W.3d 577, cert. denied, 205 L. Ed. 2d 220 (U.S. 2019).

SUBCHAPTER 3 — DRY TERRITORIES

SECTION.

3-3-303. Rules.

3-3-303. Rules.

The Director of the Alcoholic Beverage Control Division shall promulgate all rules necessary to enforce and administer this subchapter.

History. Acts 1947, No. 423, § 12; A.S.A. 1947, § 48-931; Acts 2019, No. 315, § 45.

Amendments. The 2019 amendment

deleted “and regulations” following “Rules” in the section heading and in the section.

CHAPTER 4

ALCOHOLIC BEVERAGES GENERALLY — PERMITS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ISSUANCE AND TERMS.
3. REVOCATION.
4. VIOLATIONS.
5. DISPOSITION OF FEES AND TAXES.
6. PARTICULAR PERMITS.
7. POST EXCHANGE PACKAGE PERMIT.
8. RESPONSIBLE PERMITTEE PROGRAMS.
9. CATERER’S PERMIT.
10. RESTAURANT BEER AND WINE PERMIT.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 3-4-101. Permit required.
- 3-4-103. Fiduciaries — Continuation of permitted business.

SECTION.

- 3-4-105. Temporary permits.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

3-4-101. Permit required.

- (a) Vinous (except wines), spirituous, or malt liquors or hard cider shall not be manufactured in this state for storage or sale at retail within the state without a permit issued by the Director of the Alcoholic Beverage Control Division.
- (b) A person shall not sell vinous, spirituous, or malt liquors or hard cider in this state, except as provided in this act. However, the provisions of this act shall not apply to the manufacture, sale, and distribution of wines in this state.

History. Acts 1935, No. 108, Art. 3, § 2; Pope's Dig., § 14105; A.S.A. 1947, § 48-302; 2019, No. 691, § 3.

Amendments. The 2019 amendment inserted "or hard cider" in (a) and (b); and made stylistic changes.

3-4-103. Fiduciaries — Continuation of permitted business.

(a) If a corporation or copartnership holding a permit under this act shall be dissolved, or if a receiver or assignee for the benefit of creditors is appointed therefor, or if a receiver or assignee for the benefit of creditors or a committee of the property of an individual holding a permit is appointed during the time for which the permit was granted, or if a person holding a permit dies during the term for which the permit was given, then the corporation, copartnership, receiver, or assignee, or the administrator or executor of the estate of the individual, or a committee of the property of a person adjudged to be incompetent may continue to carry on the business upon the premises for a period not to exceed twenty-four (24) months from such date of dissolution or appointment or death. The successors in interest shall be allowed to renew the permit as if the original permittee were still in place and the said successor in interest may operate the said business with the same right and subject to the same restrictions and liabilities as if he or she had been the original applicant for and the original holder of the permit, provided the approval of the Director of the Alcoholic Beverage Control Division shall be first obtained.

(b) Before continuing the business, the receiver, assignee, individual, or committee shall file a statement setting forth in such form and substance as the director may prescribe by rule the facts and circumstances by which they have succeeded to the rights of the original permittee.

(c) The director may, in his or her discretion, permit the continuance of the business or may refuse to do so.

(d) In the event that the director determines to permit the continuance of the business, the permit shall be submitted to the director, and shall have written or stamped across the face of the permit, and signed by the director, the following words:

"(Here insert the name of the person) is permitted to manufacture or sell (as the case may be) malt, vinous, or spirituous liquors, as (here insert the representative capacity, whether as assignee, receiver, executor, administrator, or otherwise) of the original permittee for the unexpired term."

(e) For each endorsement, a fee of five dollars (\$5.00) shall be paid to the Secretary of the Department of Finance and Administration by the applicant, which shall be paid into the same fund as other permit fees herein provided.

History. Acts 1935, No. 108, Art. 3, § 19; Pope's Dig., § 14124; A.S.A. 1947, § 48-319; Acts 1995, No. 652, § 7; 2019, No. 910, § 3305.

Amendments. The 2019 amendment substituted "Secretary" for "Director" in (e).

3-4-105. Temporary permits.

(a)(1) The Alcoholic Beverage Control Division may issue a temporary permit for the sale of alcoholic beverages within categories set out in subsection (b) of this section at a function sponsored by or for the benefit of a nonprofit organization or charitable organization.

(2) A temporary permit issued under this subsection may be issued for a period of time not to exceed five (5) consecutive days.

(3) An application for a temporary permit issued under this subsection shall meet the requirements as established by the Director of the Alcoholic Beverage Control Division and set out in the application.

(b)(1) The categories and application fees for temporary permits issued under subsection (a) of this section are as follows:

(A) Temporary beer permit — Fifty dollars (\$50.00) for each event for a temporary permit allowing the sale of beer;

(B) Temporary wine permit — Fifty dollars (\$50.00) for each event for a temporary permit allowing the sale of wine;

(C) Temporary spirit permit — Fifty dollars (\$50.00) for each event for a temporary permit allowing the sale of spirituous alcoholic beverages; and

(D) Temporary hard cider permit — Fifty dollars (\$50.00) for each event for a temporary permit allowing the sale of hard cider.

(2) A temporary permit issued under subsection (a) of this section is only for on-premises consumption at the event specified in the temporary permit.

(c) An applicant may apply for one (1) or more of the temporary permits authorized in subsection (a) of this section for an event.

History. Acts 2009, No. 294, § 3; 2019, No. 691, § 4.

Amendments. The 2019 amendment added (b)(1)(D).

SUBCHAPTER 2 — ISSUANCE AND TERMS

SECTION.	SECTION.
3-4-201. Number of permits restricted — Definition.	3-4-214. Contents of permits.
3-4-206. Operation of retail liquor business near church or school-house prohibited — Definitions.	3-4-220. Duplicate permits.
	3-4-221. Transfer of permitted location.

3-4-201. Number of permits restricted — Definition.

(a) The public policy of the state is to restrict the number of permits in this state to dispense vinous (except small farm wines), spirituous, or malt liquor.

(b)(1) The Alcoholic Beverage Control Board shall determine whether public convenience and advantage will be promoted by issuing a permit and by increasing or decreasing the number of permits the board issues.

(2) The number of permits issued by the board shall be restricted.

(c) The board has the discretion to determine the number of permits to be granted in each county of this state or within the corporate limits of any municipality of this state and to determine the location and the persons to whom the permits shall be issued, under the following conditions:

(1) The number of permits allowing the off-premises sale of vinous (except small farm wines), spirituous, or malt liquor in the State of Arkansas shall not exceed a ratio of one (1) permit for every seven thousand five hundred (7,500) population residing in the county or political subdivision of the county;

(2)(A) The number of permits allowing the off-premises sale of vinous (except small farm wines), spirituous, or malt liquor in a county or political subdivision of the county that permits the sale shall not exceed a ratio of one (1) permit for every seven thousand five hundred (7,500) population residing in that county or political subdivision of the county.

(B) Population of the county or political subdivision of the county shall:

(i) Be determined according to the most recent federal decennial census; and

(ii) Count all residents of the county or political subdivision of the county, including without limitation the residents of a dry political subdivision of a county;

(3) A new permit that is issued in a county or political subdivision of the county following the most recent federal decennial census shall be issued under the following restrictions:

(A) Additional permits may be issued at a ratio of one (1) permit for every additional seven thousand five hundred (7,500) population within the county or political subdivision of the county; and

(B)(i) A qualified applicant may apply for a permit.

(ii) Qualifications are to be set by the board and the board's determination of the public convenience and advantage;

(4)(A) If it is determined that a county or political subdivision of the county is entitled to additional permits when warranted by the most recent federal decennial census, the board shall announce before the last date for applications the number of new permits, if any, that may be issued in the county or political subdivision of the county.

(B) In the event that the most recent federal decennial census population figures decline in a county or political subdivision of the county:

(i) Existing permits shall not be cancelled or revoked for the decline in population;

(ii) The quota ratio shall not be applied to the county or political subdivision of the county until the population in the county or political subdivision of the county reaches a number equaling one (1) permit to every seven thousand five hundred (7,500) population; and

(iii) A new permit shall not be issued in the county or political subdivision of the county until the population warrants.

(C) A transfer of locations from one county to another county is not allowed.

(D) If a holder of a permit for the sale of vinous (except small farm wines), spirituous, or malt liquor surrenders the permit in a county or political subdivision of the county where the ratio no longer meets the requirement of one (1) permit for every seven thousand five hundred (7,500) population, new applications shall not be accepted until that ratio is reestablished at a subsequent federal decennial census;

(5)(A)(i) If a permit holder does not conduct business under a permit issued for a period of more than thirty (30) days, the permit shall be surrendered to the Director of the Alcoholic Beverage Control Division and shall be placed on inactive status.

(ii) The permit may remain inactive for three (3) months.

(B) To secure the return of the permit, the permit holder shall file with the director a written statement showing:

(i) That all taxes and fees owing to the state have been paid;

(ii) The reason for the suspension of business activities; and

(iii) The date business activity will resume.

(C)(i) The permit holder may petition the board for an extension of inactive status for an additional three-month period.

(ii) The board may grant an initial extension upon a showing by the permit holder and a finding by the board that:

(a) Business circumstances exist to justify an extension;

(b) The delay to return to business was not due to mere deferral or inattention on the part of the permit holder; and

(c) The inactive status should be extended.

(iii)(a) The permit holder may appeal to the board for a second extension of inactive status for an additional six-month period, but only upon a showing by the permit holder and a finding by the board that emergency circumstances exist to justify a final extension.

(b) "Emergency circumstances" means delays in return to business that are beyond the control, planning, or foresight of the permit holder, including without limitation:

(1) A delay due to a natural or man-made disaster;

(2) The pending adjudication of a lawsuit;

(3) A building construction problem; and

(4) A contested or delayed insurance claim or settlement.

(D) A permit remaining on inactive status for a period of more than twelve (12) months or which has not been granted an extension under this subdivision (c)(5) shall expire; and

(6)(A) This section and §§ 3-4-202 and 3-4-208, except with regard to a permit on inactive status for more than twelve (12) months after the provisions of subdivision (c)(5) of this section have become effective or a permit that has expired in accordance with subdivision (c)(5) of this section, do not divest any permit holder holding the permit on September 1, 2019, regardless of the quota ratio, of his or her permit.

(B) In a county or political subdivision of the county that has a ratio lower than the permit quota ratio of one (1) permit for every

seven thousand five hundred (7,500) population, the permit holder shall be allowed to continue under subdivision (c)(4)(B) of this section.

History. Acts 1935, No. 108, Art. 3, § 1; 1937, No. 80, § 1; Pope's Dig., § 14106; Acts 1955, No. 360, § 1; 1983, No. 812, § 1; A.S.A. 1947, § 48-301; Acts 1991, No. 714, § 1; 1991, No. 1179, § 1; 1993, No. 779, § 2; 2013, No. 1068, § 1; 2019, No. 571, § 1.

Amendments. The 2019 amendment substituted "the board issues" for "it issues" in (b)(1); rewrote (c); deleted (d); updated internal references; and made stylistic changes.

3-4-206. Operation of retail liquor business near church or schoolhouse prohibited — Definitions.

(a) As used in this section:

(1) "Church" means a church and all immediately adjacent property owned or leased by the church that is used for church purposes; and

(2)(A) "Schoolhouse" means:

(i) A facility owned and operated by a public or private school or an open-enrollment charter school; and

(ii) A public or private daycare facility licensed by the State of Arkansas.

(B) "Schoolhouse" does not include a home school.

(b)(1) No new permit to engage in the retail liquor business in this state may be issued by the Director of the Alcoholic Beverage Control Division for the location of any business situated within one thousand feet (1,000') of any church or schoolhouse property line.

(2) No existing permit to engage in the retail liquor business in this state may be transferred to a location within one thousand feet (1,000') of any church or schoolhouse property line.

(3) The distance specified in subdivisions (b)(1) and (2) of this section shall be measured by nearest property line point to nearest property line point.

(4) Subdivisions (b)(1) and (2) of this section apply only to an application for a new permit or the transfer of an existing permit filed with the Alcoholic Beverage Control Board after August 1, 2015.

(c) If a preliminary inspection by personnel of the Alcoholic Beverage Control Division indicates that a proposed location for a retail liquor business appears from any point to be situated between nine hundred feet (900') and one thousand one hundred feet (1,100') of a church or schoolhouse property line, the permit applicant shall submit to the division a survey of the location performed by a licensed surveyor before a permit is issued for the retail liquor business.

History. Acts 1975, No. 699, § 1; A.S.A. 1947, § 48-345; Acts 2001, No. 1072, § 1; 2015, No. 1172, § 1; 2017, No. 491, § 1; 2019, No. 983, § 2.

Amendments. The 2019 amendment added the (a)(1) designation; added (a)(2); and made stylistic changes.

3-4-214. Contents of permits.

A permit shall contain, in addition to any further information or material to be prescribed by the rules of the Alcoholic Beverage Control Division, the following:

- (1) The name of the person to whom the permit is issued;
- (2) The kind of permit and what kind of traffic in vinous or spirituous or malt liquors is thereby permitted;
- (3) A description by street and number or otherwise of the permitted premises;
- (4) A statement in substance that the permit shall not be deemed a property or vested right and that it may be revoked at any time pursuant to law; and
- (5) The name and address of the owner of the premises. Upon a change in the ownership, the permittee or the new owner may file notice to that effect in writing with the Director of the Alcoholic Beverage Control Division on forms to be provided by the director for that purpose.

History. Acts 1935, No. 108, Art. 3, § 9; Pope’s Dig., § 14113; Acts 1953, No. 49, § 1; A.S.A. 1947, § 48-313; Acts 2019, No. 315, § 46.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in the introductory language.

3-4-220. Duplicate permits.

Whenever a permit shall be lost or destroyed without fault on the part of the permittee or his or her agents or employees, a duplicate permit in lieu thereof may be issued by the Director of the Alcoholic Beverage Control Division in his or her discretion and in accordance with its rules, on payment of a fee of five dollars (\$5.00).

History. Acts 1935, No. 108, Art. 3, § 20; Pope’s Dig., § 14125; A.S.A. 1947, § 48-320; Acts 2019, No. 315, § 47.

Amendments. The 2019 amendment deleted “and regulations” following “rules”.

3-4-221. Transfer of permitted location.

The Alcoholic Beverage Control Board shall not authorize the transfer of a permit to dispense vinous (except small farm wines), spirituous, or malt liquor from one location to another location within a city or town located within a county having a population of two hundred thousand (200,000) or more persons, according to the most recent federal decennial census, if the transfer of the permit to a location in the city or town will result in there being more than one (1) permitted location in the city or town for every seven thousand five hundred (7,500) population in the city or town, according to the most recent federal decennial census.

History. Acts 1995, No. 861, § 1; 2013, No. 1068, § 2; 2019, No. 571, § 2.

substituted “one location” for “a location”; substituted “city or town for every seven thousand five hundred (7,500) population”

Amendments. The 2019 amendment

for “city or town for each five thousand (5,000) population”; and made a stylistic change.

SUBCHAPTER 3 — REVOCATION

SECTION.

3-4-301. Grounds for revocation.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

3-4-301. Grounds for revocation.

(a) Any permit issued pursuant to this act may be revoked for cause and must be revoked for the following causes:

(1) Conviction of the permittee or his or her agent or employee for selling any illegal beverages on the premises permitted;

(2) For making any false material statement in an application for a permit;

(3) If, within a period of two (2) years, there shall have been two (2) convictions for any violation of this act by a permittee, or two (2) convictions of any of his or her clerks, agents, employees, or servants of any violation of this act on the premises permitted;

(4) For transferring, assigning, or hypothecating a permit;

(5) Violating the provisions of § 3-1-103(c) which shall cause a forfeiture of the permit of all parties to the violation;

(6) For selling or agreeing to sell any spirituous, vinous, or malt liquors to a wholesaler, rectifier, or dispensary who is not permitted at the time of the agreement and sale to receive, store, transport, sell, and dispense same under the provisions of this act;

(7) For failure or default of a permittee to pay any license or permit tax or any part thereof or penalties imposed by this act and for a violation of any rule of the Secretary of the Department of Finance and Administration or the Director of the Alcoholic Beverage Control Division in pursuance thereof;

(8) If a retail liquor permittee directly or indirectly remunerates any person, firm, or corporation that has a direct or indirect pecuniary, proprietary, or financial interest in the creation, establishment, opera-

tion, or contractual branding of another permitted liquor establishment;

(9) If a retail liquor permittee directly or indirectly receives remuneration from any other retail liquor permittee relating to the creation, establishment, operation, or contractual branding of another permitted liquor establishment; or

(10) Except for a holder of a vested permit, if a retail liquor permittee brands the permitted location with the same name or logo as another retail liquor permittee.

(b)(1) Whenever any person holding a retailer’s permit to sell and dispense vinous or spirituous liquors for beverage purposes at retail shall fail to pay any Arkansas gross receipts tax, franchise tax, or the three percent (3%) special alcoholic beverage excise tax within sixty (60) days after the taxes become due, the secretary shall notify the Alcoholic Beverage Control Board of that fact and the board shall immediately revoke such permit.

(2) It shall be unlawful for the board or any person to restore or issue a retailer’s permit to any person whose permit has been revoked under the provisions of this subsection within two (2) years from the date of the revocation.

History. Acts 1935, No. 108, Art. 3, § 13; Pope’s Dig., § 14117; Acts 1969, No. 221, § 1; A.S.A. 1947, §§ 48-316, 48-316.1; Acts 2011, No. 70, § 3; 2015, No. 1142, § 1[2]; 2019, No. 910, §§ 3306, 3307.

Amendments. The 2019 amendment substituted “Secretary” for “Director” in (a)(7) and (b)(1).

SUBCHAPTER 4 — VIOLATIONS

SECTION.	SECTION.
3-4-401. Authorization to impose fines.	3-4-407. Violation of local closing hours laws.
3-4-404. Class B permit violations.	

3-4-401. Authorization to impose fines.

In addition to all other sanctions and penalties which may be administratively imposed by the Director of the Alcoholic Beverage Control Division pursuant to the procedures outlined in this title and the Arkansas Administrative Procedure Act, § 25-15-201 et seq., the director shall have the power and authority to levy fines and suspend them against controlled beverage permit holders when the director determines the permit holder has violated the alcoholic beverage control laws of this state or rules of the Alcoholic Beverage Control Division.

History. Acts 1981, No. 790, § 2; A.S.A. 1947, § 48-346; Acts 2019, No. 315, § 48.

Amendments. The 2019 amendment substituted “rules” for “regulations”.

3-4-404. Class B permit violations.

The following acts on the part of the permittee are Class B permit violations:

- (1) Pledge, hypothecation, or use of a permit as collateral;
- (2) Defacing, destroying, or altering a permit;
- (3) Transporting controlled beverages in violation of rules or law;
- (4) Manufacturing, selling, offering, dispensing, or giving away, possessing, or transporting controlled beverages upon which tax is not paid;
- (5) Failure to maintain proper records by a manufacturer;
- (6) Failure by a wholesaler to maintain proper records;
- (7) Failure by a wholesaler to register new brands;
- (8) Giving samples without authorization;
- (9) Sales for anything other than cash or check;
- (10) Delivery without an invoice by a wholesaler;
- (11) Selling to the insane;
- (12) Selling to bootleggers;
- (13) Accepting food stamps in payment for controlled beverages;
- (14) Unlawful manufacture or sale in a dry area; and
- (15) Sale of controlled beverages by vending machine.

History. Acts 1981, No. 790, § 2; A.S.A. 1947, § 48-346; Acts 1991, No. 605, § 2; 1993, No. 172, § 3; 2009, No. 294, § 5; 2009, No. 605, § 9; 2009, No. 606, § 9; 2019, No. 315, § 49.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (3).

3-4-407. Violation of local closing hours laws.

(a) The General Assembly, by legislation, and the Alcoholic Beverage Control Division, by rule, have created general closing hours for establishments which sell or dispense alcoholic beverages. However, the General Assembly and the division have also given the power to local city governments or local county quorum courts to adopt hours of operation which are more restrictive than the general hours of operation stated for certain permits issued by the division. It is recognized that it is more convenient for local authorities to change local ordinances on a basis that can be more frequent than the basis with which the General Assembly meets or the division adopts rules. For that reason, local control of these issues, as allowed by Code sections and regulations, is desirable. It is also recognized that when a city or county adopts a more restrictive law in this area it is unnecessary and burdensome for the city or county to notify the division each time that a modification is made to local laws, and for this reason enforcement of more restrictive ordinances should be by local law enforcement personnel who are attached to the jurisdiction which creates the more restrictive hours-of-operations law.

(b) It is hereby provided that when any permittee of the division is cited with a violation of any local closing hour ordinance adopted by a

city government or a county government, that violation of an ordinance which is more restrictive than provided for by the state shall be punishable by a fine of one hundred dollars (\$100) to five hundred dollars (\$500) and that violation shall not be considered to be an administrative violation against the permit issued by the division.

(c) Enforcement of the more restrictive local ordinances and the issuance of citations for violations thereof shall be by local law enforcement officers within the jurisdiction where such ordinance is in effect. Such citations shall be heard only in a local court of competent jurisdiction.

History. Acts 1999, No. 305, § 1; 2019, No. 315, § 50.

Amendments. The 2019 amendment

substituted “rule” for “regulations” in the first sentence of (a), and “rules” for “regulations” in the third sentence of (a).

SUBCHAPTER 5 — DISPOSITION OF FEES AND TAXES

SECTION.

3-4-501. When fees due — Disposition.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

3-4-501. When fees due — Disposition.

(a) All license taxes provided and levies under this act shall be due and payable on the tenth day of each month succeeding the time when the act is done requiring the license.

(b) It shall be the duty of the person required to pay the license to make a report giving the facts in such form and substance as the Director of the Alcoholic Beverage Control Division shall by rule require. All payments therefor shall be made to the Secretary of the Department of Finance and Administration, payable to the Treasurer of State, and all permit fees shall likewise be made to the secretary and payable to the Treasurer of State.

(c)(1) Except for grocery store wine permit fees under § 3-5-1802, all permits or license fees or taxes, penalties, fines, and costs received by the secretary under the provisions of this act shall be general revenues

and shall be deposited into the State Treasury to the credit of the State Apportionment Fund.

(2) The Treasurer of State shall allocate and transfer the amounts to the various State Treasury funds participating in general revenues in the respective proportions to each as provided by and to be used for the respective purposes set forth in the Revenue Stabilization Law, § 19-5-101 et seq.

History. Acts 1935, No. 108, Art. 4, § 5; Pope’s Dig., § 14131; Acts 1953, No. 118, § 32(E); A.S.A. 1947, § 48-325; Acts 2017, No. 508, § 2; 2019, No. 910, § 3308.

Amendments. The 2019 amendment substituted “Secretary” for “Director” twice in (b), and in (c)(1).

SUBCHAPTER 6 — PARTICULAR PERMITS

SECTION.	SECTION.
3-4-601. Kinds of permits generally.	3-4-607. Minimum wholesale liquor permit.
3-4-602. Distillers or manufacturers.	3-4-611. Hard cider manufacturing permit.
3-4-604. Retailers.	
3-4-605. Wholesalers.	
3-4-606. Wholesalers — Additional requirements.	

3-4-601. Kinds of permits generally.

(a) There shall be various kinds of permits, including without limitation:

- (1) Distiller’s permit;
- (2) Brewer’s permit;
- (3) Rectifier’s permit;
- (4) Wholesaler’s permit;
- (5) Dispenser’s permit;
- (6) Hotel, restaurant, or club permit;
- (7) Grocery store wine permit;
- (8) Layout center permit; and
- (9) Hard cider manufacturing permit.

(b) Each kind of permit shall be distinctive in color and design so as to be readily distinguishable from each other.

History. Acts 1935, No. 108, Art. 3, § 2; Pope’s Dig., § 14105; A.S.A. 1947, § 48-302; Acts 2017, No. 508, § 3; 2017, No. 726, § 1; 2019, No. 691, § 5.

Amendments. The 2019 amendment added (a)(9).

3-4-602. Distillers or manufacturers.

(a) Any person may apply to the Director of the Alcoholic Beverage Control Division for a permit to manufacture, distill, import, transport, store, and sell to a wholesaler, jobber, or distributor spirituous, vinous (except small farm wines), or malt liquors to be used and sold for beverage purposes.

(b) The application shall be in writing and verified and shall set forth in detail such information concerning the applicant for the permit and the premises to be used therefor as the director shall require.

(c) The application shall be accompanied by a certified check, cash, or postal money order for the amount required by this act for the permit.

(d) If the director grants the application, he or she shall issue a permit in such form as shall be determined by rules established by the director.

(e) The permit shall contain a description of the premises to be used by the applicant and in form and in substance shall be a permit to the person therein specifically designated to manufacture, distill, transport, and sell to a wholesaler, jobber, or distributor spirituous, vinous (except small farm wines), or malt liquors in or from the premises therein specifically authorized.

(f) No distiller or manufacturer shall sell or contract to sell any spirituous, vinous (except small farm wines), or malt liquors referred to herein to any wholesaler, distributor, or jobber, or to any other person who is not duly authorized under this act to receive, possess, transport, distribute, or sell those liquors.

(g) Under rules adopted by the director, a distiller or manufacturer may:

- (1) Sell, deliver, or transport to wholesalers;
- (2) Sell, deliver, or transport to rectifiers;
- (3) Export out of the state;
- (4) Sell for off-premises consumption spirituous or vinous liquors the distiller or manufacturer manufactures on any day of the week;
- (5) Serve on the premises complimentary samples of liquors produced by the distiller or manufacturer;
- (6) Sell at retail, by the drink or by the package, spirituous or vinous liquors produced on the premises of the distillery if all sales occur in a wet territory; and
- (7) Sell for consumption on the premises of the manufacturer:
 - (A) Liquors produced by the manufacturer or liquors that the manufacturer may purchase from wholesalers licensed by the state;
 - (B) Wine;
 - (C) Beer; and
 - (D) Malt liquor.

(h)(1) For the privilege of distilling spirituous liquors or manufacturing malt liquors, each person engaged in distilling spirituous liquors or manufacturing malt liquors shall pay an annual permit fee of three hundred dollars (\$300) for each manufacturing or distilling plant.

(2) For the privilege of manufacturing vinous liquors (except small farm wines), there is assessed and there shall be paid an annual permit fee of and by every person engaged therein. The permit fee shall be in the sum of five hundred dollars (\$500) for each manufacturing plant.

(3) However, for the privilege of distilling brandy or spirituous liquors for use only in the fortifying of native wines, which are wines manufactured from the juices of grapes, berries, and other fruits or

vegetables grown in this state, there shall be collected an annual permit fee of two hundred fifty dollars (\$250) for each manufacturing or distilling plant.

(i) Liquors may be sold for on-premises sale or off-premises sale, or both, for consumption during all legal operating hours in which business is normally and legally conducted on the premises if:

(1) The manufacturer provides tours through its facility; and

(2) Only sealed containers are removed from the premises.

(j)(1) A manufacturer may provide liquor it manufactures to charitable or nonprofit organizations or sell for resale liquor it manufactures to charitable or nonprofit organizations holding valid special event permits issued by the Alcoholic Beverage Control Board.

(2) The sale of products under subdivision (j)(1) of this section is limited to the duration of the particular special event.

(k)(1) If approved by the Alcoholic Beverage Control Division and if the division receives written notice at least five (5) days before the event, the division may authorize a distiller or manufacturer to conduct a spirituous or vinous liquor tasting event for educational or promotional purposes at any location in a wet area of this state.

(2)(A) Before an authorization is issued under subdivision (k)(1) of this section, the division shall receive written notice of the spirituous or vinous liquor tasting event at least two (2) weeks before the event.

(B) A spirituous or vinous liquor tasting event may be held under this subsection in any facility licensed by the division in a wet area of this state.

History. Acts 1935, No. 108, Art. 3, § 3; 1935, No. 108, Art. 4, § 1; Pope's Dig., §§ 14107, 14127; Acts 1939, No. 302, § 1; 1983, No. 675, § 1; A.S.A. 1947, §§ 48-303, 48-321; Acts 2011, No. 827, § 1; 2015, No. 1143, § 1; 2017, No. 1117, §§ 1, 2; 2019, No. 315, § 51; 2019, No. 740, § 1.

Amendments. The 2019 amendment by No. 315 deleted "and regulations" following "rules" in (d).

The 2019 amendment by No. 740 inserted "small farm" in (a), (f), and (h); substituted "grants" for "shall grant" in (d); inserted "(except small farm wines)" in (e); inserted "or vinous" in (g)(4), (g)(6), (k)(2)(A), and (k)(2)(B); deleted "and every" following "each" in the second sentence of (h)(2); and inserted "or manufacturer" and "or vinous" in (k)(1).

3-4-604. Retailers.

(a) A person, other than a distiller, importer, rectifier, or wholesaler, may apply to the Director of the Alcoholic Beverage Control Division for a permit to sell and dispense vinous or spirituous liquors or hard cider for beverage purposes at retail.

(b) The application shall be in writing and shall set forth in detail such information concerning the applicant for the permit and the premises to be used by the applicant as the director may require.

(c) The application shall be accompanied by a certified check, cash, or postal money order for the amount required by this act for the permit.

(d) If the director shall grant the application, he or she shall issue a permit in such form as shall be determined by the rules of the Alcoholic Beverage Control Division.

(e) The permit shall contain a description of the premises permitted and in form and substance shall be a permit to the person specifically designated in the permit to sell and dispense at retail spirituous or vinous liquors or hard cider.

(f) All such sales shall be in unbroken packages that shall not be opened or the contents or any part consumed on the premises where purchased.

(g) For the privilege of operating a dispensary from which the vinous, spirituous, and malt liquors (except wines) or hard cider are to be dispensed in the manner provided in this act, there is assessed and there shall be paid a permit fee of and by the person engaged therein in the sum of four hundred dollars (\$400) per annum payable on or before June 30 of each calendar year for the fiscal year beginning July 1.

History. Acts 1935, No. 108, Art. 3, § 6; 1935, No. 108, Art. 4, § 4; Pope's Dig., §§ 14110, 14130; Acts 1983, No. 420, § 1; 1983, No. 675, § 4; A.S.A. 1947, §§ 48-309, 48-313.1, 48-324; Acts 2019, No. 691, §§ 6, 7.

Amendments. The 2019 amendment inserted "or hard cider" in (a), (e), and (g); and made stylistic changes.

3-4-605. Wholesalers.

(a) A person other than a distiller, manufacturer, rectifier, or importer may apply to the Director of the Alcoholic Beverage Control Division for a permit to sell spirituous liquor, wine as defined in § 3-9-301(7), beer, hard cider, or malt liquors at wholesale.

(b) The application shall be in writing and shall set forth in detail such information concerning the applicant for the permit and the premises to be used by the applicant as the director may require.

(c) The application shall be accompanied by a certified check, cash, or postal money order for the amount required by this act for the permit.

(d) If the director grants the application, he or she shall issue a permit in a form as determined by the rules of the Alcoholic Beverage Control Division.

(e) The permit shall contain a description of the premises permitted and in form and substance shall be a permit to the person specifically designated in the permit to sell spirituous liquor, wine as defined in § 3-9-301(7), beer, hard cider, or malt liquors for beverage purposes.

(f) A person holding a distiller's or rectifier's permit need not obtain a wholesaler's permit in order to sell at wholesale spirituous liquor or wine as defined in § 3-9-301(7).

(g)(1)(A) A person other than a person holding a distiller's, manufacturer's, or rectifier's permit shall not sell spirituous liquor, wine as defined in § 3-9-301(7), hard cider, or malt liquors at wholesale.

(B) A person other than a person holding a wholesaler's permit shall not sell spirituous liquor, wine as defined in § 3-9-301(7), or malt liquors at wholesale.

(2) A wholesaler holding a permit shall not sell or buy from another unless he or she holds a permit, but a wholesaler may export from or import into this state liquors under rules promulgated by the division.

(h) A wholesaler shall not sell or contract to sell spirituous liquor, wine as defined in § 3-9-301(7), beer, hard cider, or malt liquors to a dispensary, hotel, restaurant, or club if the dispensary, hotel, restaurant, or club is not authorized under this act to receive, possess, transport, distribute, or sell spirituous liquor, wine as defined in § 3-9-301(7), beer, hard cider, or malt liquors.

(i) Further, a licensed wholesaler in Arkansas of spirituous liquor, beer, hard cider, or wine as defined in § 3-9-301(7) may only purchase spirituous liquor, beer, hard cider, or wine as defined in § 3-9-301(7) from a distiller, importer, rectifier, hard cider manufacturer, or a domestic wine producer. However, this restriction does not apply to the purchase of native wines.

(j)(1) For the privilege of storing, transporting, and selling spirituous liquor, wine as defined in § 3-9-301(7), beer, hard cider, or malt liquors at wholesale, there is assessed and there shall be paid an annual permit fee of and by every person engaged therein. The permit fee shall be in the sum of seven hundred dollars (\$700) for each separate and distinct establishment.

(2) However, this section does not apply to residents of Arkansas who store, transport, and sell wine or hard cider at wholesale manufactured by them in this state.

History. Acts 1935, No. 108, Art. 3, § 5; 1935, No. 108, Art. 4, § 3; Pope's Dig., §§ 14109, 14129; Acts 1973, No. 299, § 1; 1983, No. 675, § 3; A.S.A. 1947, §§ 48-305, 48-323; Acts 2009, No. 294, § 6; 2019, No. 691, §§ 8, 9.

Amendments. The 2019 amendment inserted "hard cider" throughout the section; inserted "hard cider manufacturer" in (i); and made stylistic changes.

3-4-606. Wholesalers — Additional requirements.

(a) In addition to any restriction or requirement now imposed by law or by valid rule promulgated in accordance with law, the following persons shall not be eligible hereafter to receive, obtain, or be granted any wholesale liquor permit:

(1) Any individual person who is not a citizen and bona fide resident of the State of Arkansas and who has not been domiciled in the State of Arkansas continuously for at least five (5) years next preceding the date of his or her application for permit;

(2) Any corporation in which any officer, director, manager, or stockholder of which would be ineligible as an individual person to obtain a permit by reason of the foregoing provisions of subdivision (a)(1) of this section or by reason of any other existing restriction or provision of law or valid rule promulgated in accordance with law; or

(3) Any partnership, any of whose members or manager would be ineligible as an individual to obtain such permit by reason of the provisions of subdivision (a)(1) of this section or of any other provisions of law or valid rule as aforesaid.

(b)(1) Any corporation which shall apply for a wholesale liquor permit shall, at the time of filing, attach thereto a list of its stockholders, managers, directors, and officers on such form as may be prescribed by the officer or authority issuing the permit, verified by the president and secretary and showing the names, addresses, and places of residence of all such persons for the five (5) years next preceding the date of application.

(2) When the residence or address of any such stockholder, manager, director, or officer is changed, the change shall be reported by the corporation to such officer or authority within ten (10) days thereafter.

(3) No stock in any corporation holding a permit shall be issued or transferred to any ineligible individual, except in the case of transfer by reason of death of a stockholder. In that event, the transfer by death to any ineligible individual shall be reported by the corporation to the issuing officer or authority not later than sixty (60) days after the death. If within six (6) months thereafter the stock transferred by death shall not have been transferred by bona fide transaction to an individual otherwise eligible to receive the permit as provided herein, and as provided by existing law or rule, as aforesaid, the permit of the corporation shall immediately be revoked and cancelled.

(c) The provisions of this section shall not apply to any stock owned in any company legally operating in the State of Arkansas on June 7, 1951.

(d)(1) Any wholesale liquor permit that may be issued to any individual, partnership, or corporation which shall be found thereafter ineligible as provided in this section, or as otherwise provided by law or rule, shall be cancelled and revoked.

(2) If any individual, partnership, or corporation shall not comply fully with the provisions hereof, any permit theretofore issued shall be cancelled and revoked.

(e) This section shall not apply to any person, firm, or corporation which, for a period of at least ten (10) years prior to June 7, 1951, had continuously been the holder of a wholesale liquor permit issued by this state.

(f) This section shall be cumulative to existing restrictions and requirements governing the issuance of wholesale liquor permits.

History. Acts 1951, No. 379, §§ 1-3; A.S.A. 1947, §§ 48-314.1 — 48-314.3; Acts 2019, No. 315, § 52-54.

Amendments. The 2019 amendment

substituted “rule” for “regulation” throughout (a); and substituted “rule” for “regulations” in the last sentence of (b)(3) and in (d)(1).

3-4-607. Minimum wholesale liquor permit.

(a)(1) A person other than a distiller, manufacturer, rectifier, or importer may apply to the Director of the Alcoholic Beverage Control Division for a minimum wholesale liquor permit that allows the person to sell spirituous liquors, wine as defined in § 3-9-301(7), hard cider, and malt liquors at wholesale.

(2) A minimum wholesale liquor permit holder shall not sell more than a combined total of twenty thousand (20,000) cases of spirituous liquors, wine as defined in § 3-9-301(7), hard cider, or malt liquors.

(3) A case is a container that holds nine liters (9 l) of beverages.

(b) The application shall be in writing and shall provide information concerning the applicant for the minimum wholesale liquor permit and the premises to be used by the applicant as the director requires.

(c) The application shall be accompanied by a certified check, cash, or postal money order for the amount required by this section for the minimum wholesale liquor permit.

(d) If the director grants the application, he or she shall issue a minimum wholesale liquor permit in a form as determined by the rules of the Alcoholic Beverage Control Division.

(e) The minimum wholesale liquor permit shall contain a description of the premises permitted and in form and substance shall be a minimum wholesale liquor permit to the person specifically designated to sell spirituous liquors, wine as defined in § 3-9-301(7), hard cider, and malt liquors for beverage purposes.

(f)(1) A person other than a person holding a distiller's, manufacturer's, rectifier's, or minimum wholesale liquor permit shall not sell spirituous liquors, wine as defined in § 3-9-301(7), and malt liquors at wholesale.

(2) A wholesaler holding a minimum wholesale liquor permit shall not sell or buy from another person unless the other person holds a minimum wholesale liquor permit, but a wholesaler may export from or import into this state spirituous liquors, wine as defined in § 3-9-301(7), hard cider, and malt liquors under rules promulgated by the division.

(g) A wholesaler holding a minimum wholesale liquor permit shall not sell or contract to sell any spirituous liquors, wine as defined in § 3-9-301(7), hard cider, and malt liquors to a dispensary, hotel, restaurant, or club if the dispensary, hotel, restaurant, or club is not authorized under § 3-4-601 to receive, possess, transport, distribute, or sell spirituous liquors, wine as defined in § 3-9-301(7), hard cider, and malt liquors.

(h) A minimum wholesale liquor permittee of spirituous liquors, wine as defined in § 3-9-301(7), hard cider, and malt liquors in Arkansas shall purchase spirituous liquors, wine as defined in § 3-9-301(7), hard cider, and malt liquors only from a distiller, importer, rectifier, or a domestic wine producer. However, this restriction does not apply to the purchase of native wines.

(i)(1) The minimum wholesale liquor permit fee is two thousand five hundred dollars (\$2,500) for each separate establishment.

(2) This section does not apply to residents of Arkansas who store, transport, and sell wine at wholesale manufactured by them in this state.

(j) The provisions of § 3-4-606 shall apply to a wholesaler who has a minimum wholesale liquor permit.

History. Acts 2009, No. 294, § 7; 2019, inserted “hard cider” throughout (a) and No. 691, §§ 10, 11.

Amendments. The 2019 amendment

inserted “hard cider” throughout (a) and (e)-(h); and made stylistic changes.

3-4-611. Hard cider manufacturing permit.

(a) A person may apply to the Director of the Alcoholic Beverage Control Division for a permit to manufacture, import, transport, store, and sell to a wholesaler, jobber, distributor, or retailer hard cider to be used and sold for beverage purposes as authorized under this section.

(b) An application under this section shall:

(1) Be in writing;

(2) Be verified;

(3) State in detail information concerning the applicant for the permit and the premises to be used by the applicant as required by the director; and

(4) Be accompanied by a certified check, cash, or postal money order for the amount required in subsection (f) of this section for the permit.

(c) If the director grants an application under this section, he or she shall issue the permit in a form prescribed by rule.

(d) A permit under this section shall:

(1) Contain a description of the premises to be used by the applicant; and

(2) Permit the applicant to manufacture, transport, and sell to a wholesaler, jobber, distributor, or retailer hard cider in or from the premises specifically authorized under this section.

(e) A hard cider manufacturer may:

(1) Manufacture at its licensed facility no less than thirty-five percent (35%) of its hard cider to be sold in the state and no more than forty-five thousand (45,000) barrels per year;

(2)(A) Sell, deliver, or transport hard cider manufactured by the hard cider manufacturer to, including without limitation:

(i) Wholesalers;

(ii) Retail license holders;

(iii) Small brewery license holders;

(iv) Small winery license holders;

(v) Microbrewery-restaurant license holders; and

(vi) Distillers.

(B)(i) A hard cider manufacturer may only sell, deliver, or transport hard cider produced on the premises of the hard cider manufacturer under subdivision (e)(2)(A) of this section if the total production

of the permitted hard cider manufacturer does not exceed fifteen thousand (15,000) barrels of hard cider per year from all facilities under common ownership with the hard cider manufacturer.

(ii) Each permitted hard cider manufacturer shall submit documentation of production each year to renew the permit with the Alcoholic Beverage Control Division.

(iii) A hard cider manufacturer may distribute no more than fifteen thousand (15,000) barrels per year.

(C)(i) To sell and transport hard cider under subdivision (e)(2)(A) of this section, the hard cider manufacturing permit holder shall obtain a hard cider manufacturing wholesale permit.

(ii) The hard cider manufacturing permit holder shall pay a fee of two hundred fifty dollars (\$250) per year for the permit under subdivision (e)(2)(C)(i) of this section;

(3)(A) Maintain one (1) separate manufacturing facility for the production or storage of hard cider as needed to meet demand, except that each facility used by the hard cider manufacturer permittee shall not in the aggregate produce more than forty-five thousand (45,000) barrels of hard cider per year.

(B) Hard cider manufactured by a separate manufacturing facility of a hard cider manufacturing permittee shall be:

(i) Sold to a licensed wholesaler; or

(ii) Transported:

(a) From the separate manufacturing facility to a facility commonly owned by the owner of the separate manufacturing facility for retail sale for consumption on or off the licensed premises; and

(b) To the separate manufacturing facility from a facility commonly owned by the owner of the separate manufacturing facility for storage, production, or packaging;

(4) Export hard cider manufactured by the manufacturer out of the state;

(5) Sell for on-premises or off-premises consumption during legal operating hours hard cider manufactured by the manufacturer;

(6) Serve on the premises:

(A) Complimentary samples of hard cider manufactured by the manufacturer; and

(B)(i) Spirituous liquors for on-premises consumption in a taproom under the license of a small brewery.

(ii) Subdivision (e)(6)(B)(i) of this section authorizing on-premises consumption is effective only in cities and counties, or portions of cities and counties, in which the manufacture or sale of intoxicating liquor is not prohibited as a result of a local option election held under Initiated Act No. 1 of 1942, §§ 3-8-201 — 3-8-203 and 3-8-205 — 3-8-209, and in which the sale of alcoholic beverages for on-premises consumption has been approved by a majority vote at a referendum election as provided in this chapter;

(7) Sell at retail, by the drink or by the package, hard cider manufactured by the manufacturer;

(8) Sell for consumption on the premises of the manufacturer:

- (A) Hard cider manufactured by the manufacturer;
- (B) Hard cider that the manufacturer may purchase from wholesalers licensed by the state;
- (C) Wine;
- (D) Beer; and
- (E) Malt beverages;

(9) Store beer, malt beverages, wine, and hard cider legally purchased for resale on the premises; and

(10) Sell hard cider manufactured by the manufacturer at fairs and festivals with the permission and the consent of the management of the events if the sale occurs in a wet area and the hard cider sold is for consumption by persons of legal age.

(f) For the privilege of manufacturing hard cider, each person engaged in manufacturing hard cider shall pay an annual permit fee of three hundred dollars (\$300) for each manufacturing plant.

(g) Hard cider may be sold for consumption on-premises or off-premises, or both, during all legal operating hours in which business is normally and legally conducted on the premises, if:

- (1) The manufacturer provides tours through its facility; and
- (2) Only sealed containers are removed from the premises.

(h) A manufacturer may donate or sell for resale hard cider it manufactures to a charitable or nonprofit organization holding a valid temporary permit issued by the Alcoholic Beverage Control Board.

(i)(1) The division may authorize a manufacturer to conduct a hard cider-tasting event for educational or promotional purposes.

(2)(A) Before an authorization is issued under subdivision (i)(1) of this section, the manufacturer shall provide written notice of the hard cider-tasting event at least two (2) weeks before the event.

(B) A hard cider-tasting event under this subsection shall be held in any facility licensed by the division in a wet territory of this state.

(j)(1) A hard cider manufacturer may transport its hard cider along any highway, road, street, or other thoroughfare of travel.

(2) A hard cider manufacturer may ship hard cider it manufactures out of the state by common carrier or other appropriate parcel delivery service, and common carriers and other appropriate parcel delivery services may accept hard cider from Arkansas manufacturers for delivery outside the state.

(3) A hard cider manufacturer in this state may ship hard cider it manufactures within the state by common carrier or other appropriate parcel delivery service, and common carriers and other appropriate parcel delivery services may accept hard cider from Arkansas manufacturers for delivery within the state if the hard cider is shipped only to persons holding a wholesale permit to purchase, store, sell, or dispense hard cider.

(k)(1) A hard cider manufacturer may include a tap room at its facility and may:

- (A) Sell for both on-premises and off-premises consumption hard cider manufactured at the facility; and

(B) Sell for on-premises consumption beer, hard cider, malt beverages, and wine not manufactured at the facility.

(2) A hard cider manufacturer may operate a restaurant in conjunction with its tap room.

(1)(1) A hard cider manufacturer selling and transporting hard cider manufactured on the premises of the facility is a supplier.

(2) A hard cider manufacturer is not subject to § 3-5-1101 et seq. unless the hard cider manufacturer exceeds annual production of hard cider of fifteen thousand (15,000) barrels.

(m) The director shall adopt rules to implement and administer this section.

History. Acts 2019, No. 691, § 1.

SUBCHAPTER 7 — POST EXCHANGE PACKAGE PERMIT

SECTION.

3-4-704. Rules.

3-4-706. Military service club mixed
drink permit.

3-4-704. Rules.

The Alcoholic Beverage Control Division is authorized to adopt reasonable rules to carry out the intent and provisions of this subchapter, to establish appropriate application forms, permit forms, and procedures, and to do any and all other things necessary to implement the provisions of this subchapter.

History. Acts 1989, No. 617, § 6; 2019, deleted “and regulations” following No. 315, § 55. “Rules” in the section heading and in the

Amendments. The 2019 amendment section.

3-4-706. Military service club mixed drink permit.

(a) In addition to the post exchange and other post operations authorized to be taken over by the militia pursuant to the provisions of this section, the Adjutant General of the Arkansas National Guard is given further authority to take over operation of all military service clubs on Fort Chaffee.

(b)(1) It is recognized that Fort Chaffee has operated under exclusive federal jurisdiction and that such military service clubs have not been required to obtain a license from the State of Arkansas to authorize such operations.

(2) However, pursuant to resumption of state jurisdiction over Fort Chaffee, state licenses will be required.

(c)(1) Therefore, there is hereby created a military service club mixed drink permit authorizing the sale of alcoholic beverages as defined in § 3-9-202 to be issued to service clubs on military reservations owned or controlled by the State of Arkansas.

- (2) The Alcoholic Beverage Control Division is authorized to issue such a permit to each military service club operating on Fort Chaffee.
- (3)(A) The annual fee for each military service club mixed drink permit shall be seven hundred fifty dollars (\$750), and the annual fee shall be due and collected in the same manner as all other permit fees collected by the division.
- (B) Food service requirements for restaurants, as set out in § 3-9-202 et seq. shall not be applicable.
- (C) Hours of operation for such service clubs shall be the same as are now in existence for private clubs licensed pursuant to § 3-9-221 et seq.
- (4) The division is authorized to adopt reasonable rules to provide for the operation of such service clubs consistent with the intent and purposes of this section.

History. Acts 1997, No. 1201, § 15; 2009, No. 294, § 9; 2019, No. 315, § 56. deleted “and regulations” following “rules” in (c)(4).

Amendments. The 2019 amendment

SUBCHAPTER 8 — RESPONSIBLE PERMITTEE PROGRAMS

SECTION.

3-4-803. Responsible permittee program.

3-4-806. Mitigation of fines or penalties.

3-4-803. Responsible permittee program.

- (a)(1) The Alcoholic Beverage Control Board shall oversee a server training program designed to encourage permittees and their employees to treat the sale and service of alcoholic beverages in a responsible manner.
- (2) To that end, the board shall adopt rules which shall implement the intent of this subchapter.
- (b) The program shall be entitled “the responsible permittee program”.

History. Acts 1993, No. 173, § 3; 2019, No. 315, § 57. deleted “and regulations” following “rules” in (a)(2).

Amendments. The 2019 amendment

3-4-806. Mitigation of fines or penalties.

The Alcoholic Beverage Control Board shall consider certification of a permittee in the responsible permittee program in mitigation of administrative penalties or fines for a permittee’s or employee’s violation of state laws and rules relating to the sale of alcoholic beverages.

History. Acts 1993, No. 173, § 6; 2019, No. 315, § 58. **Amendments.** The 2019 amendment substituted “rules” for “regulations”.

SUBCHAPTER 9 — CATERER'S PERMIT

SECTION.

3-4-905. Rules and forms.

3-4-905. Rules and forms.

The Alcoholic Beverage Control Division is authorized to adopt reasonable rules implementing and facilitating the purpose and intent of this subchapter, to establish appropriate application forms, permit forms, and procedures, and to do any and all other things necessary to implement the provisions of this subchapter.

History. Acts 1999, No. 1170, § 4; the section heading; and deleted “and 2019, No. 315, § 59. regulations” following “rules” in the section.

Amendments. The 2019 amendment substituted “Rules” for “Regulations” in

SUBCHAPTER 10 — RESTAURANT BEER AND WINE PERMIT

SECTION.

3-4-1001. Creation — Issuance — Expiration.

3-4-1001. Creation — Issuance — Expiration.

(a)(1) In addition to all other existing alcoholic beverage permits authorized to be issued by the Alcoholic Beverage Control Division for the retail sale of alcoholic beverages, there is created a restaurant beer and wine permit, which authorizes the sale of beer, hard cider, and wine as defined in § 3-9-301(7) at restaurants as defined in § 3-9-301(6).

(2) The restaurant beer and wine permit is not subject to any quota restrictions.

(b) The permit may be issued by the division to a qualified person.

(c) Each restaurant beer and wine permit shall be issued annually for a fee of three hundred and fifty dollars (\$350) and shall expire on June 30 of each year.

History. Acts 2009, No. 294, § 11; 2009, No. 763, § 3; 2019, No. 691, § 12. **Amendments.** The 2019 amendment inserted “hard cider” in (a)(1).

CHAPTER 5**BEER AND WINE — MANUFACTURE, SALE, AND
TRANSPORTATION GENERALLY**

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. BEER AND LIGHT WINE.
6. NATIVE WINES — PRODUCTION AND SALE.
7. WINE PRODUCERS COUNCIL.
8. NATIVE WINE INDUSTRY DISASTER RELIEF ACT.
9. NATIVE WINES — INCENTIVE GRANTS.

SUBCHAPTER.

10. NATIVE WINES — SUBSIDIES.
12. MICROBREWERY-RESTAURANTS.
14. ARKANSAS SMALL BREWERY ACT.
15. TEMPORARY WINE CHARITABLE AUCTION PERMIT.
16. FREE TRADE AMONG SMALL WINERIES.
17. DIRECT SHIPMENT OF VINOUS LIQUOR ACT.
18. WINE SALES IN GROCERY STORES.
19. MICROBREWERY-RESTAURANT PRIVATE CLUB PERMIT.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

3-5-105. Beer festival permit.

3-5-105. Beer festival permit.

(a)(1) The Director of the Alcoholic Beverage Control Division may issue a temporary permit to authorize the following:

(A) A festival to be conducted over a period not to exceed three (3) days;

(B) The consumption by persons of legal age of beer and malt beverages, as defined by § 3-5-1202, and hard cider on the festival grounds;

(C) The permittee to charge an entry fee for persons wishing to attend the festival and to distribute beer, malt beverages, and hard cider on any day of the week, including Sunday, as provided for in this section, pursuant to the following conditions:

(i) The distribution of beer, malt beverages, and hard cider, as authorized in this section, shall be limited to the secure area as prescribed in subdivision (a)(1)(D) of this section; and

(ii) The distribution of beer, malt beverages, and hard cider on Sunday, as authorized in this section, shall be limited to the hours between 12:00 noon and 10:00 p.m. central time and be limited to those areas where the retail sale and consumption of alcoholic beverages on Sunday has been approved pursuant to Arkansas law;

(D) The festival permittee to designate the permitted area on the festival grounds to be approved by the director, such that it is a secure area which will not allow unsupervised access and egress; and

(E) Participation in this event by any legal brewery, microbrewery, microbrewery-restaurant, distributor, wholesaler, brewpub, small brewery, hard cider manufacturer, or small brewery tap room, whether or not it is currently registered or its product is licensed in the State of Arkansas.

(2)(A) The director shall not issue this permit if the proposed location is in a dry area.

(B) The director may issue this permit only to a charitable or nonprofit organization as provided for by the Alcoholic Beverage Control Board, except that this permit may not be issued to a charitable or nonprofit organization holding a private club license.

(3) The permittee shall maintain the permit in conjunction with any other legally obtained permit.

(b)(1) The permittee shall provide to the board no later than one (1) week prior to the event a complete listing of those nonlicensed participants and the products they will be providing. The list shall include proof of delivery, such as an invoice, from the participant which will denote such product or products being provided to the festival.

(2) The permittee may reimburse participants, if so desired, for the cost of the product provided for the licensed event.

(3)(A) The permittee shall designate one (1) wholesale distributor currently licensed in Arkansas to act as a temporary warehouse for those nonlicensed products to be stored prior to or following the event.

(B) Those products shall be stored for a period not to exceed one (1) week prior to and following the event.

(C) The designated wholesaler shall not be in violation of § 3-3-216, § 3-5-221, § 3-5-1307, or § 3-7-104.

(4)(A) The designated wholesaler shall pay the Miscellaneous Tax Section of the Office of Excise Tax Administration a wholesalers tax of \$7.507808 per barrel equal to thirty-one gallons (31 gals.) for each barrel of beer, malt beverage, or hard cider provided for this festival by any participant whose product is not currently licensed or registered in the State of Arkansas.

(B) This tax shall be paid in conjunction with the currently required miscellaneous tax and shall be paid by the same means as are currently required in the normal course of paying the miscellaneous tax.

(C) The designated wholesaler shall be reimbursed for this tax by the permittee and may collect a handling fee for services rendered in warehousing such nonlicensed product for this festival.

(c) Neither the participants in this event nor their products need be registered under § 3-2-409, § 3-5-1303, or § 3-7-106, nor shall they be in violation of § 3-3-216, § 3-3-304 [repealed], § 3-3-305 [repealed], § 3-5-205, § 3-5-210, § 3-5-211, § 3-5-216, § 3-5-217, or § 3-5-221 for this event only.

(d) The festival participants and attendees while on the festival grounds shall not be found to be in violation of § 5-71-212(c) or (d) regarding public consumption. This does not exclude any participant or attendee from being found in violation of § 5-71-212(a) or (b) regarding public intoxication.

(e) The permittee shall pay to the board a fee of two hundred fifty dollars (\$250) per event for a temporary permit under this section.

(f) Every provision of this section shall be subject to all beer, malt beverage, and hard cider laws and rules, except that conflicting beer, malt beverage, and hard cider laws and rules shall be inapplicable to any provision of this section to the extent that they conflict herewith.

(g) A small brewery holding a distribution permit and a beer festival permit may accept and hold beers from out-of-state breweries and distributors for the purpose of pouring at beer festivals.

History. Acts 1999, No. 1065, § 1; 2009, No. 294, § 12; 2017, No. 950, §§ 1, 2; 2019, No. 315, § 60; 2019, No. 691, §§ 13-15.

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” twice in (f).

The 2019 amendment by No. 691 inserted “and hard cider” throughout (a) and twice in (f); inserted “hard cider manufacturer” in (a)(1)(E); inserted “or hard cider” in (b)(4)(A); and made stylistic changes.

SUBCHAPTER 2 — BEER AND LIGHT WINE

SECTION.

3-5-202. Definitions.

3-5-205. Privilege tax — Levy and collection — Exception — Definition.

3-5-206. Issuance of state permit.

3-5-216. Warehousing of beer and light wines.

3-5-217. Transportation of products.

SECTION.

3-5-222. Nudity on premises prohibited — Penalty — Rules.

3-5-223. Actions to recover taxes.

3-5-224. Disposition of funds.

3-5-225. Additional administrative personnel.

3-5-226. On-premises sales by brewery.

Effective Dates. Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

3-5-202. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) “Beer” means any fermented liquor made from malt or any substitute therefor and having an alcoholic content not in excess of five percent (5%) by weight;

(2) “Brewery” means any place where beer as defined by this section is manufactured for sale or consumption;

(3) “Consumer” means a person who receives or in any way comes into possession of beer and light wines as defined in this section for the purpose of consuming them, giving them away, or distributing them in any way other than by sale, barter, or exchange;

(4) “Distributor” means any person who receives, either from within or from without this state, light wines and beer as defined by this section for the purpose of distributing them to the dealer either in the original stamped packages as received from the brewery or winery or in bottles as received from the bottler;

(5)(A) “Home-brewed beer” means beer, ale, porter, stout, and other similar fermented beverages containing one-half of one percent (0.5%) or more of alcohol by volume brewed or produced from malt, wholly or in part, or from a substitute for malt, for consumption but not for sale.

(B) Any manufacturer of home-brewed beer must have attained twenty-one (21) years of age;

(6) “Intoxicating liquor” means vinous, ardent, malt fermented liquor or distilled spirits with an alcoholic content in excess of five percent (5%) by weight;

(7) “Light wine” means the fermented juice of grapes or other small fruits, including berries, and having an alcoholic content not in excess of five percent (5%) by weight;

(8) “Person” means one (1) or more persons, a company, a corporation, a partnership, a syndicate, or an association;

(9) “Rule” or “proper rule” means such reasonable rules authorized by law and made and promulgated by the Director of the Alcoholic Beverage Control Division with the approval of the Alcoholic Beverage Control Board;

(10) “Retail dealer” means any person who sells to the consumer light wines or beer in quantities of less than sixteen gallons (16 gals.);

(11) “Warehouse” means a house or building equipped to maintain such temperature as may be required by the rules promulgated by the director for the storage of beer or wine and a place at which taxes on the beer or wine shall be collected;

(12) “Wholesale dealer and distributor” means any person who sells beer or light wines to retail dealers in quantities of three gallons (3 gals.) or more; and

(13) “Winery” means any place where light wine as defined by this section is manufactured for sale or consumption.

History. Acts 1933 (1st Ex. Sess.), No. 7, § 2; Pope’s Dig., § 14194; A.S.A. 1947, § 48-503; Acts 1995, No. 1051, § 1; 2019, No. 315, § 61; 2019, No. 861, § 1.

by No. 315, in (9), substituted “Rule” for “Regulation”, “proper rule” for “proper regulation”, and “rules” for “regulations”.

The 2019 amendment by No. 861 rewrote (5)(A).

Amendments. The 2019 amendment

3-5-205. Privilege tax — Levy and collection — Exception — Definition.

(a) For the privilege of doing business, there shall, each fiscal year beginning July 1, be assessed, levied, and collected from each:

(1)(A) Wholesale dealer or broker, or distributor in light wine or beer, a special tax of one thousand dollars (\$1,000) for each county in which the broker, distributor, or wholesale dealer operates.

(B) However, the special tax shall not exceed five thousand dollars (\$5,000) for any one (1) broker, distributor, or wholesale dealer;

(2) Manufacturer of beer, a special tax of seven hundred fifty dollars (\$750); and

(3) Retail dealer of nonintoxicating liquor, a special tax of three hundred fifty dollars (\$350).

(b) The tax shall be due and payable at each place where the business of the wholesale dealer, manufacturer, distributor, or retail dealer, as the case may be, is carried on.

(c) All special taxes shall become due and payable on or before June 30 of each calendar year for the fiscal year beginning July 1 or on commencing business on which the tax is imposed.

(d) The tax shall be levied, assessed, and collected by such methods, within the limitations prescribed in this subchapter, and under such rules as may be regularly provided.

(e)(1) However, a grower of grapes and other fruits may manufacture and sell wine upon the premises of the grower in original packages of not less than one-fourth of a gallon ($\frac{1}{4}$ gal.) from grapes and other fruits actually grown by the party so manufacturing wine upon his or her own premises, free from the license fees and taxes provided in this subchapter.

(2) A “grower” is defined to be one who actually grows and produces grapes and other fruits upon his or her own premises or upon the premises occupied by him or her as a tenant.

(f)(1) However, any person in this state may manufacture home-brewed beer or home-manufactured wine:

(A) Upon his or her own premises free from the license fees and taxes provided in this subchapter;

(B) For consumption by the manufacturer and his or her family and guests, but not for sale; and

(C) In quantities per calendar year not to exceed:

(i) Two hundred gallons (200 gals.) if there are two (2) or more adults in the household; or

(ii) One hundred gallons (100 gals.) if there is only one (1) adult in the household.

(2) While the manufacture of beer or wine is declared to be a privilege, the home manufacture of beer or wine in quantities not to exceed two hundred gallons (200 gals.) per calendar year shall be exempted from § 3-4-101, § 3-4-602, § 3-5-205(a)-(e), § 3-5-206, and § 3-5-211.

(g) Home-brewed beer may be removed from the manufacturer’s premises for personal or family use, including without limitation, for organized affairs, exhibitions, competitions, and tastings.

(h) A microbrewery-restaurant is exempt from this section.

History. Acts 1933 (1st Ex. Sess.), No. 7, §§ 4, 11; Pope’s Dig., §§ 14196, 14203; Acts 1953, No. 372, § 1; 1957, No. 375, § 1, as added by 1953, No. 118, § 36(F), as added by 1971, No. 585, § 12; 1983, No. 420, § 1; A.S.A. 1947, §§ 48-504, 48-507, 48-313.1; Acts 1993, No. 528, §§ 1, 2;

1995, No. 1051, § 2; 2001, No. 1813, § 1; 2009, No. 294, § 13; 2015, No. 857, § 1; 2019, No. 315, § 62; 2019, No. 861, § 2.

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” in (d).

The 2019 amendment by No. 861 added

(f)(1)(D) [now (g)].

3-5-206. Issuance of state permit.

(a) The payment of the special tax provided in § 3-5-205 shall be evidenced by a permit issued by the Director of the Alcoholic Beverage Control Division.

(b) A permit shall be applied for by the special taxpayer and issued by the director on such forms and under such rules as may be prescribed.

History. Acts 1933 (1st Ex. Sess.), No. 7, § 4; Pope's Dig., § 14196; Acts 1953, No. 372, § 1; 1957, No. 375, § 1, as added by 1953, No. 118, § 36(F), as added by 1971, No. 585, § 12; A.S.A. 1947, § 48-504; Acts 2019, No. 315, § 63.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (b).

3-5-216. Warehousing of beer and light wines.

(a) Light wines or beer upon which the tax prescribed by this subchapter has not been paid may be transported from without this state to a distributor within this state and may be received and kept in storage at a distributor's place of business in this state, upon the execution of such bond as the Director of the Alcoholic Beverage Control Division may by rule prescribe.

(b) The director shall:

(1) Require the storage of all beer or wine in state-supervised warehouses, designated and licensed by the director before the sale thereof;

(2) Provide for the supervision, inspection, and collection of the costs thereof of the designated warehouses;

(3) Declare it to be unlawful to offer for sale any beer or wine not thus warehoused, inspected, and approved; and

(4) Confiscate and destroy any beer or wine not thus warehoused, inspected, and approved or which in any manner violates any provision of this subchapter.

(c) The Secretary of the Department of Finance and Administration shall provide for the collection of all fees and taxes imposed by this subchapter upon beer and wine at designated warehouses as provided for in subdivision (b)(1) of this section.

(d) All distributors and wholesalers licensed as provided in § 3-5-206 shall be given a warehouse permit as provided in this section.

(e) Every person otherwise qualified and who can furnish proper bond and a suitable warehouse shall be entitled to a license as a wholesale distributor of beer.

History. Acts 1933 (1st Ex. Sess.), No. 7, § 7; Pope's Dig., § 14199; A.S.A. 1947, § 48-508; Acts 2019, No. 910, § 3309.

Amendments. The 2019 amendment substituted "Secretary" for "Director" in (c).

3-5-217. Transportation of products.

(a)(1) It shall be lawful to transport the products defined in § 3-5-202 if the tax upon the products has been paid.

(2) It shall be lawful for any brewery in the State of Arkansas to transport and ship beer out of state by common carrier or other appropriate parcel delivery service and for common carriers and other appropriate parcel delivery services to accept beer from Arkansas breweries for delivery outside the State of Arkansas to business entities licensed and qualified in the other states.

(b) It shall be unlawful to transport into, out of, or within this state any light wines or beer upon which the state tax prescribed by this subchapter has not been paid except:

(1) Where light wines or beer, having first been ordered by or sold to a distributor within this state, is being shipped in due course of business from a brewer, manufacturer, dealer, or distributor without this state to a bonded distributor within this state; or

(2) Unless the shipment is in interstate commerce and is passing from a point of origin outside of this state through this state into another state.

(c) The transportation of such liquor into or within this state in all cases shall be under such rules as may be regularly prescribed.

History. Acts 1933 (1st Ex. Sess.), No. 7, §§ 1-A, 9; Pope's Dig., §§ 14193, 14201; A.S.A. 1947, §§ 48-502, 48-510; Acts 1997, No. 1061, § 2; 2019, No. 315, § 64.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (c).

3-5-222. Nudity on premises prohibited — Penalty — Rules.

(a) No person that has received a permit under any law of the State of Arkansas for the sale or dispensing of alcoholic beverages for on-premises consumption shall suffer or permit any person to appear on the permitted premises in such manner or attire as to expose to view any portion of the pubic area, anus, vulva, or genitals or any simulation thereof, nor suffer or permit any female to appear on the premises in such manner or attire as to expose to view any portion of her breast below the top of the areola or any simulation thereof.

(b) Any retail beer permittee violating this section shall be guilty of a Class B misdemeanor.

(c) The Alcoholic Beverage Control Board shall promulgate such rules as it deems necessary for the implementation of this section.

History. Acts 1985, No. 965, §§ 1, 2; A.S.A. 1947, §§ 48-956, 48-957; Acts 2005, No. 1994, § 373; 2019, No. 315, § 65.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (c).

3-5-223. Actions to recover taxes.

(a) Where the Secretary of the Department of Finance and Administration finds upon investigation that the state has lost tax on account

of the evasion of any provision of law, he or she may bring suit in his or her own name in the proper court for the recovery of such taxes.

(b) Action shall lie against the person evading the tax and against any person who aided, abetted, or assisted in such evasion.

History. Acts 1933 (1st Ex. Sess.), No. 7, § 16; Pope's Dig., § 14208; A.S.A. 1947, § 48-522; Acts 2019, No. 910, § 3310.

Amendments. The 2019 amendment substituted "Secretary" for "Director" in (a).

3-5-224. Disposition of funds.

All permits or license fees or taxes, penalties, fines, proceeds of all forfeitures, special inspection fees, and costs received by the Secretary of the Department of Finance and Administration under the provisions of this subchapter shall be general revenues and shall be deposited in the State Treasury to the credit of the State Apportionment Fund. The Treasurer of State shall allocate and transfer those revenues to the various State Treasury funds participating in general revenues in the respective proportions to each as provided by and to be used for the respective purposes set forth in the Revenue Stabilization Law, § 19-5-101 et seq.

History. Acts 1933 (1st Ex. Sess.), No. 7, § 6, as added by 1953, No. 118, § 32(F); 1933 (1st Ex. Sess.), No. 7, § 16; Pope's Dig., §§ 14198, 14208; Acts 1957, No. 375, § 1, as added by 1953, No. 118, § 36(F), as

added by 1971, No. 585, § 12; A.S.A. 1947, §§ 48-504, 48-505, 48-522; Acts 2019, No. 910, § 3311.

Amendments. The 2019 amendment substituted "Secretary" for "Director".

3-5-225. Additional administrative personnel.

The Secretary of the Department of Finance and Administration and the Director of the Alcoholic Beverage Control Division are authorized to employ such additional clerks, inspectors, and assistants as may be necessary for the enforcement of this subchapter.

History. Acts 1933 (1st Ex. Sess.), No. 7, § 22; Pope's Dig., § 14214; A.S.A. 1947, § 48-506; Acts 2019, No. 910, § 3312.

Amendments. The 2019 amendment substituted "Secretary" for "Director".

3-5-226. On-premises sales by brewery.

(a) The brewery may sell to the consumer at the brewery in lots of fewer than sixteen gallons (16 gals.).

(b)(1) The Alcoholic Beverage Control Board is hereby authorized to promulgate reasonable rules for the on-premises sale with foods and the off-premises package sale, labeling, and identification of beer sold at beer outlets maintained on the premises and operated in connection with a brewery in this state.

(2) Such rules shall include the following minimum requirements:

(A) The brewery shall provide tours through its facilities; and

(B) Only sealed containers may be removed from the brewery premises.

History. Acts 1999, No. 467, §§ 1, 2; 2019, No. 315, § 66.

Amendments. The 2019 amendment deleted “and regulations” following “rules”

in (b)(1); and substituted “rules” for “regulations” in the introductory language of (b)(2).

SUBCHAPTER 6 — NATIVE WINES — PRODUCTION AND SALE

SECTION.	SECTION.
3-5-601. Legislative determinations and intent.	3-5-603. Bottling — Tax.
3-5-602. Rules.	3-5-605. Importing fruits and vegetables.
	3-5-606. Importing wines for blending.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

3-5-601. Legislative determinations and intent.

(a)(1) The General Assembly finds and determines that, due to extremely high prices of cane sugar and in view of the difficulty Arkansas wineries experience in obtaining dependable supplies of liquid corn sugar used as fermentation sugars in the production of native wines in this state and in view of the fact that many fruits such as apples, berries, peaches, and American varieties of grapes such as Concord and Niagara, which are easily produced in Arkansas, are low in sufficient sugar content in many growing seasons to produce sound, stable wine and because of resulting extremely low alcohol content, the addition of sugar is essential to production of quality-consistent, stable wines.

(2) It is essential that the rules pertaining to the production of native wines in this state be modified to permit Arkansas wineries to use various other sources of sugar that have been approved for wine production under applicable federal regulations.

(b)(1) It is further determined by the General Assembly that in view of federal laws prohibiting the use of artificial flavoring in the production of natural wines it is essential for wineries to use natural fruit flavors and essences, that there is a lack of natural fruit flavor and natural essence produced in Arkansas due to the climatic conditions of this state, for example, vermouth herbs, etc., commonly imported from

Europe, and that the lack of natural fruit flavor and natural essence and herbs is causing a severe drop in the sale of Arkansas native wines.

(2) More and newer flavors of grape and apple wines are being produced, largely by wineries in the major wine-producing states and foreign countries, making it extremely difficult for Arkansas wineries to increase the exportation of native wine produced in this state into other states.

(3) It is in the interest of the fruit and vegetable growers in this state that Arkansas wineries be able to obtain the necessary natural fruit flavors and essences required to flavor and supplement Arkansas native wines produced in this state, thereby permitting Arkansas wineries to offer to the public a broader variety of native wines and, through increased wine production, experience an increasing demand for production of fruits and vegetables in this state which are used in the production of native wines, thereby resulting in gains in employment for the citizens of this state.

(c)(1) The General Assembly further determines that it was the purpose and intent of the Native Wine Law to promote the increased marketing and exportation of Arkansas fruits and vegetables in the form of wine and that it was not the intent of the Native Wine Law to curtail the expansion of Arkansas wineries by restricting the supply of raw materials when the supply of any particular raw material within the State of Arkansas is insufficient to sustain a properly aging quality-controlled wine product line.

(2) The General Assembly recognizes that acts of God — storms, hail, early spring frost, root bore disease, or other natural factors — or inadequate acreage of fruit needed to sustain the product line may cause an insufficiency in the supply of particular raw materials essential in the production of wine.

(3) The General Assembly further recognizes that many farmers in this state tend to overplant more frostproof varieties of grapes which produce heavy tonnages of grapes that, when converted into wine, result in overproduction of a particular type of wine, which is difficult to sell unless blended with other types of wines to make the same easily marketable.

(4) These factors and adverse circumstances, coupled with skyrocketing production costs and substantial increases in sugar prices, are causing a decline in the sale of Arkansas wines which may force wineries out of business, with a resulting loss of an established market for the sale of Arkansas grapes and other fruits and vegetables which are produced for sale to wineries.

(d)(1) The General Assembly is aware of the laws of other states having native wine laws which have adopted the federal laws and regulations as pertaining to the appellation of origin and the blending and proper labeling of wines, which allow a wine to carry the name of the state in which produced on its label as long as seventy-five percent (75%) of the fruit or materials from which the wine is made is grown within the state designated on the label.

(2) Wineries in other states are thereby enjoying greater flexibility in overcoming weather damage which enables them to market and produce nationally with greater ease. The enactment of comparable provisions is essential to assure that Arkansas wineries and fruit and vegetable growers who sell and produce fruits and vegetables to be used in making wine have a fair competitive position with wineries of other states.

History. Acts 1975, No. 675, §§ 2, 4; A.S.A. 1947, §§ 48-634n, 48-635n; Acts 2019, No. 315, § 67.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (a)(2).

3-5-602. Rules.

(a) The Secretary of the Department of Finance and Administration is authorized to establish appropriate rules, if he or she deems it advisable, to simplify the furnishing of information to the Department of Finance and Administration as required under the provisions of this subchapter.

(b) The secretary may promulgate forms which are to be filed with the department abbreviating information now required to be furnished under this subchapter or may waive in writing the filing of any information with the department on condition that the information and records will be kept by Arkansas wineries for department inspection and audit.

History. Acts 1979, No. 770, § 1; A.S.A. 1947, § 48-633.1; Acts 2019, No. 315, § 68; 2019, No. 910, § 3313.

The 2019 amendment by No. 910 substituted “secretary” for “director” in (a) and (b).

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (a).

3-5-603. Bottling — Tax.

(a) In order to enable Arkansas wineries which produce native wines to sell their products to interstate and intrastate passenger airline companies and to passenger railroads in containers for their convenience and use, the Alcoholic Beverage Control Board is authorized to promulgate rules to permit the bottling of wines produced by wineries in this state in two-fifths ($\frac{2}{5}$) of a pint or split size wine containers, or other nearest metric size practicable when the metric system of measurement is phased into operation in this country, for sale to airlines and passenger railroads for sale for consumption thereon.

(b) The rules may also authorize the packaging of wines produced in two-fifths ($\frac{2}{5}$) of a pint or split size containers in the form of cluster sampler packages for sale in package form under such rules as the board shall determine, for sale in this state or for export sale in other states.

(c) The Department of Finance and Administration is authorized to collect the necessary taxes in the same manner as now prescribed by

law on the twentieth day of the month, on sales in Arkansas for the month preceding, on wines bottled and packaged under subsections (a) and (b) of this section, which are sold in Arkansas.

History. Acts 1975, No. 675, § 1; A.S.A. substituted “rules” for “regulations” twice 1947, § 48-633; Acts 2019, No. 315, § 69. in (b).

Amendments. The 2019 amendment

3-5-605. Importing fruits and vegetables.

(a) Arkansas wineries are authorized to import into this state, in private or common carriers, fruits and vegetables grown outside the State of Arkansas in various forms so as to facilitate economic transportation and to use the fruits or vegetables in the production of wine according to applicable federal wine regulations, and labeled according to federal wine regulations.

(b) The importation of fruits and vegetables and the use thereof in wine production shall be in accordance with reasonable rules promulgated by the Department of Finance and Administration to assure compliance with this subchapter and prevent abuse thereof.

(c)(1) An Arkansas winery importing fruits or vegetables grown outside the State of Arkansas for use in making wines in this state shall pay the seventy-five-cents-per-gallon tax levied on imported wines or wines produced from fruits and vegetables not grown in this state or on wine made from such juices extracted from fruits or vegetables brought into the state if the wine is sold in Arkansas.

(2) The tax shall be paid in the same manner as prescribed by law on the twentieth day of the month on sales in Arkansas for the month preceding.

(3) Records at the Arkansas winery required by federal law shall be maintained to reflect the ratio of blend of Arkansas-grown wine and the amount of wine in the blend made from the fruits or vegetables grown outside the State of Arkansas.

(4) The seventy-five-cents-per-gallon tax shall be required to be paid only on the portion of the blend made from fruits or vegetables grown outside the State of Arkansas which are sold in Arkansas.

(5) The tax on the Arkansas-grown portion of the wine blend shall be the same as now required on wines produced from Arkansas-grown fruits and vegetables.

(d) Records of wine blends shall be preserved by the winery for a period of three (3) years from the relevant date of the record. These records shall be available on the premises at all times for the reasonable inspection by authorized agents of the Alcoholic Beverage Control Division and the department.

History. Acts 1975, No. 675, § 5; A.S.A. deleted “and regulations” following “rules” 1947, § 48-635; Acts 2019, No. 315, § 70. in (b).

Amendments. The 2019 amendment

3-5-606. Importing wines for blending.

(a)(1) Arkansas wineries are authorized to import into Arkansas finished or unfinished wines for blending with Arkansas red or white wines.

(2) The wines shall be shipped into this state and blended according to regulations as set forth in federal regulations and labeled according to federal regulations which require that the appellation of origin of "Arkansas Wines" can be used only on those wines which contain seventy-five percent (75%) Arkansas-grown grapes or other materials.

(b) The Arkansas winery shall pay a tax of seventy-five cents (75¢) per gallon on all wines imported into this state if the wines are sold in Arkansas. The seventy-five-cents-per-gallon tax shall be required to be paid only on the portion of the blend not grown and produced in Arkansas. The tax on the Arkansas-grown portion of the wine blend shall be the same as now required for wines produced from Arkansas-produced fruits and vegetables.

(c) The tax shall be paid in the same manner as prescribed on the twentieth day of the month of sale in Arkansas for the month preceding.

(d) The Arkansas winery shall keep records as required by federal law to show the ratio of blend of Arkansas-grown wines and the amount of out-of-state wines used in the blend.

(e) The Department of Finance and Administration shall establish appropriate rules for the reporting and collecting of the tax on imported wines used in such blends.

(f) To facilitate differentiation of taxes to the State of Arkansas on a wine blend under the provisions of this subchapter, a copy of the blend-ratio record which identifies the wine type or class shall accompany tax remittances for shipments made for sale in Arkansas for each particular blend.

(g) Records of the blends shall be preserved by a winery for a period of three (3) years from the relevant date of the record and shall be available on the premises at all times for reasonable inspection by authorized agents of the department.

(h) The Arkansas winery desiring to import wines into Arkansas to be used in blending with Arkansas wines as authorized in this subchapter shall make application for a permit to be issued by the Miscellaneous Tax Section of the Office of Excise Tax Administration, to import wines in the same manner presently required for brandy.

History. Acts 1975, No. 675, § 6; A.S.A. deleted "and regulations" following "rules" 1947, § 48-636; Acts 2019, No. 315, § 71. in (e).

Amendments. The 2019 amendment

SUBCHAPTER 7 — WINE PRODUCERS COUNCIL

SECTION.

3-5-703. Powers and duties.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

3-5-703. Powers and duties.

(a) The Arkansas Wine Producers Council shall have the authority and responsibility to promote research concerning the production of wine grapes and the manufacture of wine in Arkansas and to take any other action it deems necessary or appropriate to promote and support the Arkansas native wine industry.

(b) The council shall have the exclusive authority to expend any and all funds deposited into the Arkansas Wine Producers Council Fund in the State Treasury for promoting research concerning the production of wine grapes and the manufacture of wine in Arkansas and for promoting the Arkansas native wine industry through the State Parks, Recreation, and Travel Commission.

(c) The council shall consider proposals for research projects submitted by university research institutions relating to the production of wine grapes and the manufacture of wine in Arkansas and proposals which promote the Arkansas native wine industry and tourism related to the industry submitted by the commission.

(d) Upon approval by a majority vote of the council of a proposal for research by a university research institution or for promotion or tourism by the commission, the council shall direct the Chief Fiscal Officer of the State to transfer on the Department of Finance and Administration books, and shall cause to be transferred on the books of the Treasurer of State and the Auditor of State, such amounts as determined by the council from the Arkansas Wine Producers Council Fund to the Department of Commerce Fund Account and to the operating fund or fund accounts of approved research institutions. Use of these funds may be applied as prescribed in this section in the various states of the United States and foreign countries.

History. Acts 1983, No. 912, § 3; A.S.A. 1947, § 48-651; Acts 2019, No. 910, § 127.

Amendments. The 2019 amendment substituted “Department of Commerce

Fund Account” for “Department of Parks and Tourism Commerce Fund Account” in the first sentence of (d).

SUBCHAPTER 8 — NATIVE WINE INDUSTRY DISASTER RELIEF ACT

SECTION.

3-5-803. Acquisition of ingredients from outside state.

3-5-804. Construction of act with existing laws.

SECTION.

3-5-805. Declaration of a relief program — Effect.

3-5-807. Tax on wines produced under program.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

3-5-803. Acquisition of ingredients from outside state.

Whenever reference is made in this subchapter to the acquisition of grapes, berries, fruits, or vegetables from sources outside this state to be used for the purposes and in the quantities authorized in this subchapter, for the production of native wines, the term shall also be deemed to mean the acquisition of equivalent amounts thereof in the form of juice, pulp, or blendable wines to be used in the manufacture or blending of native wines in this state within the allowable percentages of such products used in the preparation of juices, pulp, or blendable wines as set forth in the order by the Secretary of the Department of Finance and Administration.

History. Acts 1935, No. 69, § 3; Pope’s Dig., § 14225; Acts 1981, No. 335, § 5; A.S.A. 1947, § 48-603; Acts 2019, No. 910, § 3314.

Amendments. The 2019 amendment deleted “and § 3-5-405 [repealed]” following “subchapter” twice, and substituted “Secretary” for “Director”.

3-5-804. Construction of act with existing laws.

(a) It is the intent of this subchapter and § 3-5-405 [repealed] that the provisions hereof shall be supplemental to the existing laws of this state pertaining to native wineries.

(b) It is also the intent of this subchapter and § 3-5-405 [repealed]:

(1) To provide for means of economic relief and stabilization of the native wine industry during periods of curtailed production of grapes, berries, fruits, and vegetables used in native wine production;

(2) To serve as an incentive for the restoration of vineyards, orchards, and other production facilities of products used by the native wine industry in this state; and

(3) To authorize the importation of products to offset losses of production of products in this state, only in accordance with a native wine industry disaster relief order of the Secretary of the Department of Finance and Administration.

(c) It is not the intent of this subchapter and § 3-5-405 [repealed] to modify or repeal the existing native wine laws of this state except to the extent that the laws may be in specific conflict herewith.

(d) Nothing in this subchapter and § 3-5-405 [repealed] shall be construed to require Arkansas wineries to pay gallonage tax in Arkansas on wines shipped and sold to wholesalers for sale outside of Arkansas.

(e) Nothing in this subchapter and § 3-5-405 [repealed] shall be construed to modify, amend, or repeal the laws of this state which require that the production of native wine shall be in accordance with applicable federal wine regulations with respect to the blending or labelling of wine.

History. Acts 1981, No. 335, §§ 7, 8; A.S.A. 1947, §§ 48-647, 48-648; Acts 2019, No. 910, § 3315.

Amendments. The 2019 amendment substituted “Secretary” for “Director” in (b)(3).

3-5-805. Declaration of a relief program — Effect.

(a) Whenever, due to excessive heat, drought, flood, plant disease, or other natural disaster, the production of Arkansas-grown grapes, fruits, berries, or vegetables necessary to sustain the operation of native wineries on a full production basis is severely curtailed, upon petition therefor by one (1) or more native wineries licensed to do business in this state, and upon certification from the University of Arkansas Division of Agriculture Cooperative Extension Service that the production of such products has been curtailed due to natural disaster and outlining the estimated extent of the curtailment, the Secretary of the Department of Finance and Administration shall determine, within thirty (30) days, whether circumstances exist which justify the declaration of a native wine industry disaster relief program. In connection therewith, the secretary shall make independent studies and obtain information as he or she may deem appropriate or necessary to reach a proper decision in regard to the petition.

(b)(1) Upon conclusion of the studies, and in no event later than thirty (30) days after the date of the receipt of the petition, the secretary shall issue a ruling.

(2) If the secretary shall determine that circumstances justify the invoking of a native wine industry disaster relief program, as authorized in this subchapter, he or she shall state in his or her order the facts which justify the establishment of the program, the anticipated loss in production of Arkansas-grown grapes, fruits, berries, or vegetables, or varieties thereof, to result from the natural disaster, and the

duration for which the native wine industry disaster relief program shall extend.

(3) Copies of the order shall be filed by the secretary with each licensed native winery in this state and with other interested parties who may request copies of the order.

(c) During the period of the native wine industry disaster relief program, as determined by the secretary, native wineries in this state may acquire from sources outside this state supplies of grapes, fruits, berries, or vegetables within the percentage of their total consumption of such products as set forth by the secretary.

History. Acts 1981, No. 335, § 4; A.S.A. substituted “Secretary” for “Director” 1947, § 48-645; Acts 2019, No. 910, throughout the section; and deleted “and § 3316. § 3-5-405 [repealed]” following “subchapter” in (b)(2).

Amendments. The 2019 amendment

3-5-807. Tax on wines produced under program.

(a) During a period of native wine industry disaster relief order issued by the Secretary of the Department of Finance and Administration under the provisions of § 3-5-805, any native wine produced from grapes, berries, fruits, or vegetables within the permissible quantities authorized to be imported from sources of supply outside this state to replace losses in production of such products in this state resulting from natural disaster, within the percentages set forth in the native wine industry disaster relief order of the secretary, shall be subject to the native wine tax imposed under the provisions of § 3-5-409 [repealed]. The provisions of subchapter 6 of this chapter shall be inoperative with respect to wines produced from the grapes, fruits, berries, and vegetables imported from sources of supply outside this state within the quantities set forth in the order of the secretary.

(b) However, if quantities of wine are produced from the grapes, berries, fruits, and vegetables, or juices, pulp, or blendable wines thereof produced outside this state in excess of the percentage of the products authorized in the order of the secretary to offset losses of production in this state resulting from natural disaster, the tax on such excess native wine produced from imported grapes, fruits, berries, and vegetables, or from juices, pulp, or blendable wines derived therefrom, shall be reported and paid as provided in subchapter 6 of this chapter.

History. Acts 1981, No. 335, § 6; A.S.A. 1947, § 48-646; Acts 2019, No. 910, § 3317.

Amendments. The 2019 amendment substituted “secretary” for “director” in (a) three times, and in (b).

SUBCHAPTER 9 — NATIVE WINES — INCENTIVE GRANTS

SECTION.

3-5-903. Rules.

3-5-904. Eligibility.

3-5-905. Applications.

SECTION.

3-5-907. Payments — Amount.

3-5-908. Arkansas Agricultural Marketing Grants Fund.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

3-5-903. Rules.

The Secretary of the Department of Finance and Administration may establish reasonable rules to be followed by wineries in this state in making application for the subsidy payments and to prevent abuse of the subsidy payments.

History. Acts 1985, No. 681, § 3; A.S.A. 1947, § 48-654; Acts 2019, No. 315, § 72; 2019, No. 910, § 3318.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” fol-

lowing “Rules” in the section heading and in the section.

The 2019 amendment by No. 910 substituted “Secretary” for “Director”.

3-5-904. Eligibility.

(a) A winery is eligible to receive a grant under this subchapter if the winery:

(1) Has been actively involved in the sale of wine as an Arkansas-bonded winery for five (5) years; or

(2) Has a federal license;

(3) Was licensed by the State of Arkansas as of January 1, 2016;

(4) Cultivates and maintains two (2) or more acres of marketable grapes in Arkansas using standard commercial vineyard cultivation practices;

(5) Produces by fermentation a minimum of eight hundred gallons (800 gals.) of wine on the winery premises in the previous calendar year; and

(6) Received a certification of eligibility under this subsection from the Arkansas Wine Producers Council.

(b) Only those wineries located in this state which use not less than seventy-five percent (75%) of Arkansas-grown and Arkansas-produced grapes, fruits, berries, or vegetables for producing wine shall be eligible to receive grants under the provisions of this subchapter.

(c) However, in any year in which there are losses in production of Arkansas-grown grapes, fruits, berries, or vegetables used in the production of wine resulting from droughts, floods, tornadoes, extreme weather conditions, or other natural causes, the percentage of Arkansas-grown and Arkansas-produced grapes, fruits, berries, or vegetables

used in producing wine, as required in this subchapter, shall be reduced in the proportion of the losses in production of the products as determined and set forth in a disaster relief order issued by the Secretary of the Department of Finance and Administration prepared under the same procedures as set forth in the Native Wine Industry Disaster Relief Act, § 3-5-801 et seq.

History. Acts 1985, No. 681, § 2; A.S.A. 1947, § 48-653; Acts 2003 (1st Ex. Sess.), No. 50, § 110; 2017, No. 508, § 4; 2019, No. 910, § 3319; 2019, No. 1050, § 1.

Amendments. The 2019 amendment by No. 910, in (c), substituted “Secretary”

for “Director”, and deleted “§ 3-5-405 [repealed] and” following “Native Wine Industry Disaster Relief Act”.

The 2019 amendment by No. 1050 substituted “this subsection” for “this section” in (a)(6).

3-5-905. Applications.

Any winery in this state that produces wine from grapes, fruits, berries, or vegetables grown in this state and complies with the provisions of § 3-5-904, that desires to receive the grants authorized in this subchapter with respect to the purchase of such products or with respect to such products produced in vineyards or of other growing facilities in this state belonging to the winery, may make application for grant payments under this subchapter upon forms and in accordance with the rules promulgated by the Secretary of the Department of Finance and Administration.

History. Acts 1985, No. 681, § 2; A.S.A. 1947, § 48-653; Acts 2019, No. 315, § 73; 2019, No. 910, § 3320.

by No. 315 deleted “and regulations” following “rules”.

The 2019 amendment by No. 910 substituted “Secretary” for “Director”.

Amendments. The 2019 amendment

3-5-907. Payments — Amount.

(a) Grant payments as authorized in this subchapter shall be made by the Secretary of the Department of Finance and Administration from moneys appropriated by the General Assembly for that purpose at each regular session and fiscal session of the General Assembly.

(b)(1) Grant funds awarded shall be distributed equally to each winery at a base amount not to exceed five hundred dollars (\$500), with any remaining balance of the grant to be divided among each grantee according to the same ratio as the wine taxes paid in the previous calendar year by the grantee not to exceed one hundred twenty-five thousand dollars (\$125,000) annually to any one (1) winery, as determined by the Chief Fiscal Officer of the State.

(2) If a winery reaches the annual grant limit under subdivision (b)(1) of this section, the remainder of the grant funds shall be distributed among the remaining eligible wineries.

(c) Applications for grants shall be submitted to the Chief Fiscal Officer of the State on or by the 15th of June.

History. Acts 1985, No. 681, §§ 2, 3; A.S.A. 1947, §§ 48-653, 48-654; Acts 2003 (1st Ex. Sess.), No. 50, § 111; 2009, No. 962, § 3; 2017, No. 508, § 5; 2019, No. 910, § 3321; 2019, No. 1050, § 2.

Amendments. The 2019 amendment

by No. 910 substituted “Secretary” for “Director” in (a).

The 2019 amendment by No. 1050 substituted “one hundred twenty-five thousand dollars (\$125,000)” for “one hundred thousand dollars (\$100,000)” in (b)(1).

3-5-908. Arkansas Agricultural Marketing Grants Fund.

There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State the Arkansas Agricultural Marketing Grants Fund, into which shall be paid the fees specified by § 19-6-839(b) and such moneys as may be provided by law to be used for making payments of grants to eligible Arkansas wineries under this subchapter.

History. Acts 1985, No. 681, § 3; A.S.A. 1947, § 48-654; Acts 2003 (1st Ex. Sess.), No. 50, § 112; 2019, No. 1050, § 3.

Amendments. The 2019 amendment inserted “the fees specified by § 19-6-

839(b) and”, deleted “exclusively” preceding “for making payments”, and added “under this subchapter”; and made stylistic changes.

SUBCHAPTER 10 — NATIVE WINES — SUBSIDIES

SECTION.

3-5-1005. Applications.

3-5-1007. Establishment of Arkansas Wine Grape, Berry, Fruit, and Vegetable Subsidy Fund.

Effective Dates. Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

3-5-1005. Applications.

Any winery in this state which produces wines from grapes, berries, fruits, or vegetables grown in this state, which desires to receive the subsidy authorized in this subchapter with respect to such purchases, may make application for the subsidy with the Department of Finance and Administration upon forms and in accordance with rules promul-

gated by the Secretary of the Department of Finance and Administration.

History. Acts 1975, No. 679, § 4; A.S.A. 1947, § 48-640; Acts 2019, No. 315, § 74; 2019, No. 910, § 3322.

Amendments. The 2019 amendment

by No. 315 deleted “and regulations” following “rules”.
The 2019 amendment by No. 910 substituted “Secretary” for “Director”.

3-5-1007. Establishment of Arkansas Wine Grape, Berry, Fruit, and Vegetable Subsidy Fund.

- (a) In order to provide moneys to be used in paying the subsidies to Arkansas grape, berry, fruit, and vegetable producers whose production is sold to wineries in this state for making wine, the Secretary of the Department of Finance and Administration is authorized and directed to cause to be set aside in the State Treasury an amount of sixty-nine cents (69¢) for each seventy-five cents (75¢) gallonage tax collected on wines produced by wineries in this state from grapes, berries, fruits, or vegetables used in the production of wines in this state.
- (b) The amounts to be set aside shall be certified to the Treasurer of State during each period of settlement with the Treasurer of State on wine gallonage taxes collected from wineries in this state. The funds shall be deposited in a fund within the State Treasury to be known as the “Arkansas Wine Grape, Berry, Fruit, and Vegetable Subsidy Fund”. The fund shall be used exclusively for payment of subsidies to Arkansas wineries with respect to purchases of grapes, berries, fruits, and vegetables produced in this state used in the production of wine in this state.

History. Acts 1975, No. 679, § 5; A.S.A. 1947, § 48-641; Acts 2019, No. 910, § 3323.

Amendments. The 2019 amendment substituted “Secretary” for “Director” in (a).

SUBCHAPTER 12 — MICROBREWERY-RESTAURANTS

SECTION.	SECTION.
3-5-1201. Legislative determinations and intent.	3-5-1203. Effect on other laws.
3-5-1202. Definitions.	3-5-1205. Fees and taxes.
	3-5-1208. Rules.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding

the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health,

and safety shall become effective on July 1, 2019”.

3-5-1201. Legislative determinations and intent.

(a) The General Assembly reaffirms the policy of this state of strict enforcement of laws and rules applicable to the manufacture or sale of beer including, but not limited to, those establishing the three-tier distribution system with prohibitions against ownership and employment interests between the three (3) tiers, or the “three-tier system”.

(b) The General Assembly determines:

(1) That the tourist and the convention industries contribute substantially to the revenues of business enterprises in this state and that income from the tourist trade, conventions, and allied industries is essential to the continued well-being and prosperity of this state;

(2) That there is extreme competition among states throughout the nation for the tourist and convention business; and

(3) That all reasonable steps should be taken to retain, foster, and encourage this business and to create favorable competitive conditions therefor in this state.

(c) In order to encourage tourists and conventions to come to Arkansas, it is essential that visitors to the state be provided accommodations, services, and facilities of a nature to which they are accustomed and competitive with those offered in other states and areas.

(d) It is the intent and purpose of this subchapter to authorize the legal operation of microbrewery-restaurants as herein provided as a limited exception to the three-tier system.

History. Acts 1991, No. 611, § 1; 2019, No. 315, § 75.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (a).

3-5-1202. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) “Barrel” means thirty-one gallons (31 gals.);

(2) “Beer” means any fermented liquor made from malt or any substitute therefor and having an alcoholic content not in excess of five percent (5%) by weight;

(3) “Beer, malt beverage, and hard cider law or rule” means any law of this state, or any rule promulgated and adopted with respect thereto, that is:

(A) Applicable to a person applying for or holding a license to manufacture beer, malt beverage, or hard cider; or

(B) Applicable to a person applying for or holding a license to sell beer, malt beverage, or hard cider in a restaurant for consumption on or off the licensed premises;

(4) “Board” means the Alcoholic Beverage Control Board of this state, or its successor agency;

(5) “Conflicting beer, malt beverage, or hard cider law or rule” means any beer, malt beverage, or hard cider law or rule that prohibits or conflicts with the otherwise legal licensing and operation of microbrewery-restaurants, as authorized in this subchapter, by requiring any brewer to sell only to a licensed wholesaler, or requiring any licensed retailer to sell only beer, malt beverage, or hard cider purchased from a licensed wholesaler, or prohibiting any brewer or retailer from having any ownership or employment interest in the business of the other or the premises of the other, or requiring that the excise and enforcement tax on beer, malt beverage, or hard cider manufactured by a brewer be paid by a licensed wholesaler, or any beer, malt beverage, or hard cider law or rule of similar direct or indirect effect;

(6) “Director” means the Director of the Alcoholic Beverage Control Division of this state, or its successor agency;

(7) “Dry area” means any area in this state in which the manufacture or sale of beer is prohibited by a local-option election heretofore or hereafter held pursuant to applicable laws of this state;

(8) “Federal regulations” means regulations adopted by the United States Bureau of Alcohol, Tobacco, Firearms and Explosives applicable to and consistent with a microbrewery-restaurant operation as authorized in this subchapter, incorporated herein by this reference, including, but not limited to, 27 C.F.R. Part 25, § 25.25;

(9) “Malt beverage” means any liquor brewed from the fermented juices of grain and having an alcoholic content of not less than five percent (5%) nor more than twenty-one percent (21%) by weight;

(10) “Person” means any natural person, partnership, association, or corporation; and

(11) “Restaurant” means any public or private place which is kept, used, maintained, advertised, and held out to the public or to a private or restricted membership as a place where complete meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining equipment and a seating capacity of at least fifty (50) people and having employed a sufficient number and kind of employees to prepare, cook, and serve suitable food for its guests or members. At least one (1) meal per day shall be served, and the place shall be open a minimum of five (5) days per week, with the exception of holidays, vacations, and periods of redecorating.

History. Acts 1991, No. 611, § 1; 1995, No. 491, § 1; 2019, No. 315, §§ 76, 77. substituted “rule” for “regulation” twice in the introductory language of (3) and three

Amendments. The 2019 amendment times in (5).

3-5-1203. Effect on other laws.

Every provision of this subchapter shall be subject to all beer, malt beverage, and hard cider laws and rules, except that conflicting beer, malt beverage, and hard cider laws and rules shall be inapplicable to any provision of this subchapter to the extent that they conflict herewith.

History. Acts 1991, No. 611, § 1; 1995, No. 491, § 2; 2019, No. 315, § 78.

Amendments. The 2019 amendment substituted “rules” for “regulations” twice.

3-5-1205. Fees and taxes.

A microbrewery-restaurant licensee shall:

(1) Pay any applicable city or county license or permit fees and barrelage or taxes and shall pay a state licensing fee to the Alcoholic Beverage Control Division of seven hundred fifty dollars (\$750) per fiscal year to manufacture and sell its beer, malt beverages, and hard cider for consumption both on and off the premises and to sell any other beer, malt beverages, and hard cider purchased from a licensed wholesaler for consumption on the premises;

(2) Measure beer, malt beverages, and hard cider manufactured by the microbrewery, otherwise comply with applicable rules respecting excise and enforcement tax determination of the beer, malt beverages, and hard cider, and pay any applicable bond or deposit and the amount of the state excise tax and enforcement tax to this state, but free from the fees and taxes provided in § 3-5-205, and as required by §§ 3-7-104 and 3-7-111; and

(3) Pay a tax at the rate of seven dollars and fifty cents (\$7.50) per barrel, and proportionately for larger and smaller gallonages per barrel, on all beer, malt beverages, and hard cider in quantities of up to forty-five thousand (45,000) barrels per year produced and sold or offered for sale in the state.

History. Acts 1991, No. 611, § 1; 1995, No. 491, § 4; 1997, No. 916, § 2; 1999, No. 319, § 2; 2009, No. 294, § 15; 2015, No. 857, § 6; 2017, No. 308, § 2; 2019, No. 315, § 79.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (2).

3-5-1208. Rules.

The Director of the Alcoholic Beverage Control Division, the Alcoholic Beverage Control Board, and the Secretary of the Department of Finance and Administration, and any other applicable agency of this state, shall promulgate and adopt such rules as they deem necessary for the implementation of this subchapter, which rules may consist in whole or in part of the federal regulations.

History. Acts 1991, No. 611, § 1; 2019, No. 315, § 80; 2019, No. 910, § 3324.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “Rules” in the section heading; and substituted “rules” for “regulations” twice.

The 2019 amendment by No. 910 substituted “Secretary” for “Director”; and made stylistic changes.

SUBCHAPTER 14 — ARKANSAS SMALL BREWERY ACT

SECTION.

3-5-1404. Effect on other laws.

3-5-1405. Licenses — Scope — Restrictions.

SECTION.

3-5-1408. Fees and taxes.

3-5-1413. Rules.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

3-5-1404. Effect on other laws.

Every provision of this subchapter is subject to all beer, malt beverage, and hard cider laws and rules not in conflict with the provisions of this subchapter.

History. Acts 2003, No. 1805, § 4; 2019, No. 315, § 81.

Amendments. The 2019 amendment substituted “rules” for “regulations”.

3-5-1405. Licenses — Scope — Restrictions.

(a) The Director of the Alcoholic Beverage Control Division may issue a license for a licensee to operate a small brewery that:

(1) Manufactures at its licensed facility no less than thirty-five percent (35%) of its beer, malt beverages, and hard cider to be sold in the state and no more than forty-five thousand (45,000) barrels per year;

(2) Sells to wholesale or to the consumer at the small brewery premises for consumption, either on or off the premises, brand name products of the licensed facility;

(3) Stores any beer, malt beverages, and hard cider legally purchased for resale on the premises and on the premises of the one (1) separate brewing facility of a small brewery authorized under subdivision (a)(9) of this section;

(4) Serves on the premises:

(A) Complimentary samples of beer produced by the small brewery; and

(B)(i) Spirituous liquors for on-premises consumption in a taproom under the license of the small brewery.

(ii) Subdivision (a)(4)(B)(i) of this section authorizing on-premises consumption is effective only in cities and counties, or portions of cities and counties, in which the manufacture or sale of intoxicating liquor is not prohibited as a result of a local option election held under Initiated Act No. 1 of 1942, §§ 3-8-201 — 3-8-203 and 3-8-205 — 3-8-209, and in which the sale of alcoholic beverages for on-premises consumption has been approved by a majority vote at a referendum election as provided in this chapter;

(5) Sells:

(A) At retail, by the drink or by the package, beer produced on the premises of the small brewery if all sales occur in a wet territory; or

(B)(i) At fairs and food and beer festivals with the permission and the consent of the management of the events.

(ii) A sales and use tax permit also is required for sales under subdivision (a)(5)(B)(i) of this section;

(6)(A)(i) Sells and transports:

(a) Beer produced on the premises of the small brewery to wholesale and small brewery license holders;

(b) Beer, malt beverages, and hard cider produced on the premises of the small brewery to retail license holders and small brewery license holders if the total production of the permitted brewery does not exceed fifteen thousand (15,000) barrels per year from all facilities under common ownership with the small brewery.

(ii) Each permitted brewery shall submit documentation of production each year to renew the permit with the Alcoholic Beverage Control Division.

(iii) A small brewery may distribute no more than fifteen thousand (15,000) barrels per year.

(B)(i) To sell and transport beer under subdivision (a)(6)(A) of this section, the small brewery license holder shall obtain a small brewery wholesale permit.

(ii) The small brewery license holder shall pay a fee of two hundred fifty dollars (\$250) per year for the permit under subdivision (a)(6)(B)(i) of this section;

(7) Sells for consumption on the premises of the small brewery:

(A) Beer produced by the small brewery or another small brewery;

(B) Wine; or

(C) Hard cider;

(8) Operates no more than two (2) small brewery tap rooms; and

(9)(A) Maintains one (1) separate brewing facility for the production or storage of beer, malt liquor, or hard cider as needed to meet demand, except that each facility used by the small brewery licensee shall not in the aggregate produce more than forty-five thousand (45,000) barrels of beer, malt beverage, and hard cider per year.

(B) Beer, malt beverage, and hard cider produced by a separate brewing facility of a small brewery licensee shall be:

(i) Sold to a licensed wholesaler; or

(ii) Transported:

(a) From the separate brewing facility to a small brewery commonly owned by the owner of the separate brewing facility for retail sale for consumption on or off the licensed premises; and

(b) To the separate brewing facility from a small brewery commonly owned by the owner of the separate brewing facility for storage, production, or packaging.

(b) Notwithstanding the provisions of any other law to the contrary, beer, malt beverages, and hard cider may be sold for on-premises or off-premises consumption during all legal operating hours in which business is normally and legally conducted on the premises, if:

(1) The brewery provides tours through its facility; and

(2) Only sealed containers are removed from the premises.

(c)(1) A small brewery may provide beer, malt beverages, and hard cider it manufactures to charitable or nonprofit organizations or sell for resale beer, malt beverages, and hard cider it manufactures to charitable or nonprofit organizations holding valid special event permits issued by the Alcoholic Beverage Control Board.

(2) The sale of those products is limited to the duration of the particular special event.

(d) After July 31, 2017, the director shall not issue a small brewery license to a person or entity having more than five percent (5%) common ownership with a person or entity holding a license under this subchapter or qualifying as a supplier under § 3-5-1102, except as permitted under § 3-5-1204(c).

History. Acts 2003, No. 1805, § 5; 2009, No. 1459, § 2; 2015, No. 857, § 9; 2015, No. 1237, § 3; 2017, No. 865, § 2; 2017, No. 950, § 4; 2019, No. 691, § 16.

Amendments. The 2019 amendment added (a)(7)(C).

3-5-1408. Fees and taxes.

A small brewer shall:

(1) Pay any applicable city or county license or permit fees and barrelage or taxes and shall pay a state licensing fee to the Alcoholic Beverage Control Division of three hundred dollars (\$300) per fiscal year to:

(A) Manufacture and sell its beer, malt beverages, and hard cider for consumption, both on and off the premises; and

(B) Sell any other beer, malt beverages, and hard cider purchased from a licensed dealer for consumption on or off the premises;

(2) Measure beer, malt beverages, and hard cider manufactured by the small brewer or purchased from a contract brewery, or otherwise comply with applicable rules respecting excise and enforcement tax determination of the beer, malt beverages, and hard cider, and pay any applicable bond or deposit and the amount of the state excise tax and enforcement tax to this state as required, but is free from the fees and taxes provided in § 3-5-205 and as required by §§ 3-7-104 and 3-7-111; and

(3) Pay a tax at the rate of seven dollars and fifty cents (\$7.50) per barrel, and proportionately for larger and smaller gallonages per barrel, on all beer, malt beverages, and hard cider in quantities of up to forty-five thousand (45,000) barrels per year and sold or offered for sale in the state.

History. Acts 2003, No. 1805, § 8; 2009, No. 1459, § 3; 2015, No. 857 § 9; 2019, No. 315, § 82.
Amendments. The 2019 amendment substituted “rules” for “regulations” in (2).

3-5-1413. Rules.

The Director of the Alcoholic Beverage Control Board and the Secretary of the Department of Finance and Administration may adopt rules for the implementation of this subchapter.

History. Acts 2003, No. 1805, § 13; 2019, No. 910, § 3325.
Amendments. The 2019 amendment substituted “Secretary” for “Director”.

SUBCHAPTER 15 — TEMPORARY WINE CHARITABLE AUCTION PERMIT

SECTION.
3-5-1507. Administrative rules.

3-5-1507. Administrative rules.

- (a) The Alcoholic Beverage Control Division shall adopt rules governing the application, issuance, and use of a temporary wine charitable auction permit.
- (b)(1) The division shall also adopt rules establishing penalties for violation of this subchapter or rules adopted pursuant to this subchapter.
- (2) However, penalties adopted by the division shall not exceed penalties which may be imposed on charitable organizations holding other types of temporary permits.

History. Acts 2005, No. 1157, § 1; 2019, No. 315, § 83.
Amendments. The 2019 amendment substituted “rules” for “regulations” in (a).

SUBCHAPTER 16 — FREE TRADE AMONG SMALL WINERIES

SECTION.
3-5-1602. Licensing of small farm wineries.

SECTION.
3-5-1608. Bond.
3-5-1609. Penalty.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act estab-

lishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the

fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

3-5-1602. Licensing of small farm wineries.

(a) An in-state or out-of-state small farm winery may apply to the Alcoholic Beverage Control Board for a small farm winery license.

(b)(1) A small farm winery may be licensed by the board.

(2) The license shall:

(A) Show the registration number and location of the small farm winery;

(B) Show the name of the person that owns or operates the small farm winery; and

(C) Be conspicuously posted at the small farm winery.

(c)(1) The small farm winery license authorizes the licensee to perform the following functions without the small farm winery having to obtain a separate license:

(A) Manufacture wines and bottle wines produced by that small farm winery;

(B) Bottle wines produced by another small farm winery;

(C) Serve on the premises or at small farm winery off-premises retail sites complimentary samples of wine produced by the small farm winery or another licensed small farm winery, if the small farm winery or its off-premises retail site is located in a wet territory;

(D) Sell at retail by the drink or by the package wine produced on the premises of the small farm winery or produced by another small farm winery, if all sales occur in a wet territory and at:

(i) The small farm winery off-premises retail sites; or

(ii) Fairs and food and wine festivals, with the permission and the consent of the management of the events. A sales and use tax permit is also required;

(E)(i) Sell and transport wine produced on the premises of the small farm winery or of another small farm winery to wholesale and retail license holders and small farm winery license holders.

(ii) To exercise the privileges of subdivision (c)(1)(E)(i) of this section, the small farm winery shall obtain a wine wholesale permit or sell to a licensed small farm winery wholesaler;

(F) Sell for consumption on the premises wine produced by the small farm winery or another small farm winery and purchased by the drink or by the package at the licensed premises, if the small farm winery is located in a wet territory;

(G) Receive shipments of sparkling wine or champagne in bottles with or without a label from other in-state or out-of-state small farm wineries; and

(H) Sell for on-premises or off-premises consumption hard cider manufactured by a hard cider manufacturer, if all sales occur in a wet territory.

(2) A small farm winery off-premises retail site shall be separately licensed under § 3-5-1605(a)(3) before performing the operations listed in subdivision (c)(1) of this section at the off-premises retail site.

(d) An applicant for a small farm winery license shall submit with its application to the board a copy of the small farm winery's federal basic permit and proof documenting its annual wine production.

History. Acts 2007, No. 668, § 1; 2009, No. 1195, § 1; 2013, No. 1001, § 1; 2019, No. 691, § 17. **Amendments.** The 2019 amendment added (c)(1)(H).

3-5-1608. Bond.

By consent of the Secretary of the Department of Finance and Administration, the small farm winery may file a bond with the secretary, the bond to be approved by him or her, which will entitle the small farm winery to the privilege of making settlement of its taxes every thirty (30) days, the time to be set by the secretary.

History. Acts 2007, No. 668, § 1; 2019, No. 910, § 3326. substituted "secretary" for "director" three times.

Amendments. The 2019 amendment

3-5-1609. Penalty.

Upon conviction, a person who violates this subchapter or any reasonable rule adopted under this subchapter by the Director of the Alcoholic Beverage Control Division or the Secretary of the Department of Finance and Administration is guilty of a Class B misdemeanor.

History. Acts 2007, No. 668, § 1; 2009, No. 548, § 7; 2019, No. 910, § 3327. **Amendments.** The 2019 amendment substituted "Secretary" for "Director".

SUBCHAPTER 17 — DIRECT SHIPMENT OF VINOUS LIQUOR ACT

SECTION.

3-5-1707. Rules.

3-5-1708. Disposition of funds.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that

the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the

fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

3-5-1707. Rules.

The Director of the Alcoholic Beverage Control Division, the Alcoholic Beverage Control Board, the Secretary of the Department of Finance and Administration, and any other affected agency of this state may adopt rules to implement this subchapter.

History. Acts 2013, No. 483, § 1; 2019, No. 910, § 3328. **Amendments.** The 2019 amendment substituted “Secretary” for “Director”.

3-5-1708. Disposition of funds.

- (a) Permit fees or taxes, label fees, penalties, fines, proceeds of all forfeitures, special inspection fees, and costs received by the Secretary of the Department of Finance and Administration under this subchapter shall be general revenues and shall be deposited into the State Treasury to the credit of the State Apportionment Fund.
- (b) The Treasurer of State shall allocate and transfer those revenues to the various State Treasury funds participating in general revenues in the respective proportions to each as provided by and to be used for the respective purposes set forth in the Revenue Stabilization Law, § 19-5-101 et seq.

History. Acts 2013, No. 483, § 1; 2019, No. 910, § 3329. substituted “Secretary” for “Director” in (a).

Amendments. The 2019 amendment

SUBCHAPTER 18 — WINE SALES IN GROCERY STORES

- SECTION.
- 3-5-1801. Definitions.
- 3-5-1802. Grocery store wine permit — Fees.

3-5-1801. Definitions.

As used in this subchapter:

- (1) “Grocery store” means a single physical establishment that:
 - (A) Has an inventory of human-consumable items; and
 - (B) Is located in a wet territory;
- (2) “Slotting allowance” means an allowance paid by a manufacturer to a grocery store for making room for a product on the grocery store’s shelves; and
- (3) “Wine” means port, wine, sherry wine, vermouth wine, or other wines manufactured within or without the State of Arkansas or hard cider, the alcoholic content of which does not exceed twenty-one percent (21%).

History. Acts 2017, No. 508, § 6; 2019, No. 691, § 18. **Amendments.** The 2019 amendment inserted “or hard cider” in (3).

3-5-1802. Grocery store wine permit — Fees.

(a) A grocery store may apply to the Alcoholic Beverage Control Board for a grocery store wine permit.

(b)(1) A grocery store wine permit allows a permittee to purchase and sell wine and hard cider for off-premises consumption at a single location.

(2) Wine and hard cider inventory orders or purchases, or both, shall be made only by a permittee for delivery to a single permitted location.

(3) An order of wine and hard cider inventory for one location shall not be combined with an order for another location in a manner that would result in a cumulative discount or quantity discount, or both.

(c) A grocery store seeking a grocery store wine permit shall meet the criteria for the holder of an off-premises retail beer permit in addition to the criteria established in this section.

(d)(1) For the privilege of selling wine and hard cider in a grocery store, each grocery store shall pay a grocery store wine permit fee based on the size of the permitted building space.

(2) The fee shall be:

(A) One thousand dollars (\$1,000) for a permitted building space containing less than thirty-five thousand one square feet (35,001 sq. ft.);

(B) Two thousand five hundred dollars (\$2,500) for a permitted building space containing between thirty-five thousand one square feet (35,001 sq. ft.) and fifty thousand square feet (50,000 sq. ft.);

(C) Three thousand five hundred dollars (\$3,500) for a permitted building space containing between fifty thousand one square feet (50,001 sq. ft.) and seventy-five thousand square feet (75,000 sq. ft.); and

(D) Five thousand dollars (\$5,000) for a permitted building space containing more than seventy-five thousand square feet (75,000 sq. ft.).

(e) One hundred percent (100%) of the fee shall be paid into the Arkansas Wine Grants Fund.

(f) A grocery store wine permittee may conduct tasting events for educational and promotional purposes on the permittee's premises after obtaining a wine sampling permit from the Alcoholic Beverage Control Division under § 3-5-104.

(g)(1) A grocery store seeking a grocery store wine permit may derive no more than twenty percent (20%) of its gross sales from the sale of alcoholic beverages.

(2) However, the requirement under subdivision (g)(1) of this section does not apply to an otherwise qualifying grocery store that, as of January 1, 2017, derives more than twenty percent (20%) of its gross sales from the sale of alcoholic beverages.

(h) A grocery store wine permittee shall offer for sale small farm winery wine as defined in § 3-5-1601 et seq.

(i) A grocery store wine permit shall be available for issue only in a county in which the retail sale of alcohol under § 3-4-604 was authorized as of January 1, 2017.

History. Acts 2017, No. 508, § 6; 2019, No. 691, §§ 19, 20, inserted “and hard cider” throughout (b) and in (d)(1).

Amendments. The 2019 amendment

SUBCHAPTER 19 — MICROBREWERY-RESTAURANT PRIVATE CLUB PERMIT

SECTION.

- 3-5-1901. Definitions.
- 3-5-1902. Microbrewery-restaurant private club.
- 3-5-1903. Microbrewery-restaurant private club — Procedure for obtaining permit.
- 3-5-1904. Permit — Scope — Restrictions.
- 3-5-1905. Microbrewery-restaurant private clubs — Sales prohibited.

SECTION.

- 3-5-1906. Fees and taxes.
- 3-5-1907. Microbrewery-restaurant private clubs — Reapplication for permit.
- 3-5-1908. Collection of taxes.
- 3-5-1909. Inspection of premises — Records of permitted premises and private clubs.

3-5-1901. Definitions.

As used in this subchapter:

- (1) “Alcoholic beverage” means a beverage containing more than five-tenths percent (0.5%) of alcohol by weight;
- (2) “Barrel” means thirty-one gallons (31 gals.);
- (3) “Beer” means a fermented liquor made from malt or a substitute and having an alcoholic content not in excess of five percent (5%) by volume;
- (4) “Dry area” means an area in this state in which the manufacture or sale of beer is prohibited by a local option election held pursuant to applicable laws of this state;
- (5) “Malt beverage” means a liquor brewed from the fermented juices of grain and having an alcoholic content of at least five percent (5%) but not more than twenty-one percent (21%) by weight;
- (6) “Microbrewery” means a brewery that manufactures one (1) or more varieties of beer, malt beverage, or hard cider in an aggregate quantity not to exceed forty-five thousand (45,000) barrels per year from all facilities under common ownership with the microbrewery;
- (7) “Microbrewery-restaurant private club” means a nonprofit organization organized and existing under the laws of this state that:
 - (A) Is both a microbrewery and a restaurant;
 - (B) Has members, which are not directly or indirectly benefitted by the entity’s net revenues;
 - (C) Exists for some common recreational, social, patriotic, political, national, benevolent, athletic, community hospitality, professional association, entertainment, or other object or purpose other than the consumption of alcoholic beverages; and
 - (D) Has existed for at least one (1) year; and

(8) "Restaurant" means a public or private place that:

(A) Is kept, used, maintained, advertised, and held out to the public or to a private or restricted membership as a place where complete meals are actually and regularly served;

(B) Has adequate and sanitary kitchen and dining equipment;

(C) Has seating capacity for at least fifty (50) people;

(D) Has sufficient number and type of employees to prepare, cook, and serve suitable food for its guests or members;

(E) Serves at least one (1) meal per day; and

(F) Is open for business a minimum of five (5) days per week, with the exception of holidays, vacations, and periods of redecorating.

History. Acts 2019, No. 681, § 1.

3-5-1902. Microbrewery-restaurant private club.

(a) A microbrewery-restaurant private club applicant shall be an entity organized and existing under the laws of this state before applying for a microbrewery-restaurant private club permit as prescribed in this subchapter.

(b) The net revenues of the microbrewery-restaurant private club shall not directly or indirectly benefit its members, except for the payment of bona fide expenses of the microbrewery-restaurant private club's operations.

(c) Activities at the microbrewery-restaurant private club shall be conducted for some common recreational, social, patriotic, political, national, benevolent, athletic, community hospitality, professional association, entertainment, or other object or purpose and not solely for the consumption of alcoholic beverages.

(d)(1) At the time of application for a microbrewery-restaurant private club permit, the entity shall own or lease, be the holder of a buy-sell agreement or offer and acceptance, or have an option to lease a building, property, or space for the reasonable comfort and accommodation of its members and the families and guests of its members.

(2) The microbrewery-restaurant private club shall restrict the use of club facilities to its members and the families and guests of its members.

(e) For purposes of this subchapter, a person is a member of the microbrewery-restaurant private club only upon ordering an alcoholic beverage as defined in § 3-5-1901.

(f) If the entity holding a microbrewery-restaurant private club permit additionally holds another alcoholic beverage permit, the hours of operation authorized for the microbrewery-restaurant private club apply to all permits of the entity.

History. Acts 2019, No. 681, § 1.

3-5-1903. Microbrewery-restaurant private club — Procedure for obtaining permit.

(a) A microbrewery-restaurant private club applicant may apply to obtain a microbrewery-restaurant private club through the procedures provided under § 3-9-222.

(b)(1) The application for a microbrewery-restaurant private club shall be submitted to the Alcoholic Beverage Control Division and accompanied by an annual permit fee of one thousand five hundred dollars (\$1,500).

(2) In an area in which the sale of alcoholic beverages is not authorized by local option under § 3-8-201 et seq., the application for a microbrewery-restaurant private club permit shall be accompanied by an additional application fee of one thousand five hundred dollars (\$1,500).

(c)(1) After filing an acceptable application with the Director of the Alcoholic Beverage Control Division, the applicant shall publish at least one (1) time each week for four (4) consecutive weeks in a legal newspaper of general circulation in the city in which the premises are situated or, if the premises are not in a city, in a newspaper of general circulation for the locality where the business is to be conducted, a notice that the applicant has applied for a permit to dispense alcoholic beverages on the premises.

(2) The notice shall be:

(A) In such form as the director prescribes; and

(B) Verified.

(3) The notice shall list the name of the business owner and the managing agent, as applicable, and shall state:

(A) That the manager, owner, at least one (1) partner, or the majority stockholder is a resident of Arkansas;

(B) That he or she is of good moral character;

(C) That he or she has never been convicted of a felony;

(D) That he or she has never had a permit to sell or dispense alcoholic beverages revoked within the five (5) years preceding the date of the notice; and

(E) That he or she has never been convicted of violating the laws of this state or of any other state governing the sale or dispensing of alcoholic beverages.

(d)(1) Within five (5) days after filing an application for a permit to dispense alcoholic beverages on the premises, a notice of the application shall be posted in a conspicuous place at the entrance to the planned premises.

(2) The applicant shall notify the director of the date when the notice is first posted.

(3) A permit shall not be issued to an applicant until proper notice has been posted on the premises for at least thirty (30) consecutive days.

(4) The notice shall be in such form as the director shall prescribe and shall be:

(A) At least eleven inches (11") in width and seventeen inches (17") in height; and

(B) Printed in black lettering on a yellow background.

(e)(1) Upon receipt of an application for a permit and notification of the posted notice as required under subsection (d) of this section, the director shall immediately mail a copy of the application to the sheriff, chief of police, if located within a city, prosecuting attorney of the locality in which the premises are situated, and city board of directors or other governing body of the city in which the premises are located.

(2) A permit shall not be issued by the director under this section until at least thirty (30) days have passed from the mailing of the notices required by this section.

(3) If the director receives notification of an objection to the issuance of a permit from a governing official of the city or county within the thirty (30) days required under subdivision (d)(3) of this section, the director shall not issue the permit until he or she has held a public hearing.

(f) The director may issue a permit as authorized in this section upon determination that the applicant is qualified and that the application is in the public interest.

History. Acts 2019, No. 681, § 1.

3-5-1904. Permit — Scope — Restrictions.

(a) The Director of the Alcoholic Beverage Control Division may issue a microbrewery-restaurant private club permit that authorizes the permittee to:

(1) Operate a microbrewery-restaurant private club and manufacture one (1) or more varieties of beer, malt beverage, or hard cider in an aggregate quantity not to exceed forty-five thousand (45,000) barrels per year from all facilities under common ownership with the microbrewery;

(2)(A) Store beer, malt beverage, and hard cider manufactured by the microbrewery-restaurant private club and any other beer, malt beverage, and hard cider that the microbrewery-restaurant private club permittee may purchase from retailers and small brewers permitted by this state on the microbrewery-restaurant private club permitted premises and on the premises of the one (1) separate brewing facility of a microbrewery-restaurant private club authorized under subdivision (a)(8) of this section.

(B) Two (2) or more microbrewery-restaurant private clubs sharing common ownership or a brewery of any size sharing common ownership with a microbrewery-restaurant private club shall be considered one (1) entity for purposes of:

(i) Calculating barrel production; and

(ii) The transportation of beer, malt beverage, or hard cider produced by one (1) entity among no more than three (3) microbrewery-restaurant private clubs of the one (1) entity;

(3) Operate a restaurant that is the sales outlet for beer, malt beverage, or hard cider manufactured by the microbrewery-restaurant private club and that sells the beer, malt beverage, or hard cider and any other beer, malt beverage, hard cider, or wine that the microbrewery-restaurant private club permittee may purchase from retailers permitted by this state for consumption on the permitted premises or purchased directly from permitted small brewers allowed to distribute directly to the microbrewery-restaurant private club;

(4) Sell on the premises beer, malt beverage, or hard cider manufactured by the microbrewery-restaurant private club or commonly owned facility to a member for on-premises consumption during legal operating hours;

(5) Serve to a member on-premises complimentary samples of beer, malt beverages, or hard cider produced by the microbrewery-restaurant private club;

(6) Sell beer, malt beverage, or hard cider of its own manufacture to a wholesale dealer permitted by this state for the purpose of resale to other retail permit holders under §§ 3-4-605 and 3-5-101, dealing with wholesale distribution of beer, malt beverage, and hard cider;

(7)(A) Conduct beer-tasting, malt beverage-tasting, and hard cider-tasting events for educational or promotional purposes at any location in wet areas of this state if:

(i) A request for approval to conduct a beer-tasting, malt beverage-tasting, and hard cider-tasting event is received by the Alcoholic Beverage Control Division at least two (2) weeks before the event;

(ii) The request is approved by the division; and

(iii) Written notice is given by the division to the permit holder at least five (5) days before the event.

(B) The microbrewery-restaurant private club shall use only beer, malt beverage, and hard cider produced by the microbrewery-restaurant private club for an event approved under subdivision (a)(7)(A) of this section.

(C) Subdivision (a)(7)(A) of this section does not authorize the conducting of a beer-tasting, malt beverage-tasting, and hard cider-tasting event at a separate brewing facility of a microbrewery-restaurant private club authorized under subdivision (a)(8) of this section; and

(8)(A) Maintain one (1) separate brewing facility for the production or storage of beer, malt liquor, and hard cider as needed to meet demand, except that each facility used by the microbrewery-restaurant private club permittee shall not in the aggregate produce more than forty-five thousand (45,000) barrels of beer, malt beverage, and hard cider per year.

(B) Beer, malt beverage, and hard cider produced by a separate brewing facility of a microbrewery-restaurant private club permittee shall be:

(i) Sold to a permitted wholesaler; or

(ii) Transported:

(a) From the separate brewing facility to a microbrewery-restaurant private club commonly owned by the owner of the separate brewing facility for retail sale for consumption on the permitted premises; or

(b) To the separate brewing facility from a microbrewery-restaurant private club commonly owned by the owner of the separate brewing facility for storage, production, or packaging.

(b) The director may issue a microbrewery-restaurant private club permit if the microbrewery-restaurant private club premises are in a dry area and the governing body has approved an applicant under § 3-5-1903.

(c)(1) Except as provided in subdivision (c)(2) of this section, after October 1, 2019, the director shall not issue a microbrewery-restaurant private club permit to a person or entity having more than five percent (5%) common ownership with a person or entity holding a permit under the Arkansas Small Brewery Act, § 3-5-1401 et seq., or qualifying as a supplier under § 3-5-1102.

(2) The director may issue an additional microbrewery-restaurant private club permit after October 1, 2019, to a person or entity holding a microbrewery-restaurant private club permit as of October 1, 2019, and having more than five percent (5%) common ownership with a person or entity if the person or entity holds a permit under the Arkansas Small Brewery Act, § 3-5-1401 et seq., or qualifies as a supplier under § 3-5-1102.

History. Acts 2019, No. 681, § 1.

3-5-1905. Microbrewery-restaurant private clubs — Sales prohibited.

(a) A microbrewery-restaurant private club permitted under this subchapter shall not sell alcoholic beverages either by the package or by the drink to a:

(1) Nonmember for on-premises or off-premises consumption; or

(2) Member for off-premises consumption.

(b) If a permittee sells, barter, loans, or gives away an alcoholic beverage in violation of this subchapter or other alcoholic beverage control laws of this state, the permit of the club shall be revoked.

History. Acts 2019, No. 681, § 1.

3-5-1906. Fees and taxes.

A microbrewery-restaurant private club permittee shall:

(1) Pay the applicable city or county permit fees and barrelage or taxes and shall pay a state permitting fee to the Alcoholic Beverage Control Division of seven hundred fifty dollars (\$750) per fiscal year to manufacture and sell to members its beer, malt beverages, and hard cider for consumption on the premises and to sell to members other

beer, malt beverages, and hard cider purchased from a permitted wholesaler for consumption on the premises;

(2) Measure beer, malt beverages, and hard cider manufactured by the microbrewery-restaurant private club, otherwise comply with applicable excise and enforcement tax determinations of the beer, malt beverages, and hard cider, and pay any applicable bond or deposit and the amount of the state excise tax and enforcement tax to this state, except the fees and taxes provided in § 3-5-205, and as required by §§ 3-7-104 and 3-7-111; and

(3) Pay a tax at the rate of seven dollars and fifty cents (\$7.50) per barrel, and proportionately for larger and smaller gallonages per barrel, on all beer, malt beverages, and hard cider in quantities of up to forty-five thousand (45,000) barrels per year produced and sold or offered for sale in the state.

History. Acts 2019, No. 681, § 1.

3-5-1907. Microbrewery-restaurant private clubs — Reapplication for permit.

(a) An entity that is denied upon application to the Director of the Alcoholic Beverage Control Division for a permit to operate as a microbrewery-restaurant private club in a dry territory may reapply by following the procedures stated in § 3-5-1903 and the additional procedures provided for in subsection (b) of this section.

(b)(1) If the applicant is reapplying within two (2) years from the date an application was denied by the director, the application shall be accompanied by certification from the county clerk of the county in which the microbrewery-restaurant private club is to be located certifying that the applicant obtained signatures from at least twenty-five percent (25%) of the registered voters in the county.

(2) The application under this section shall be filed no later than twenty (20) days from the date that the county clerk certifies the petition.

(3) The petition on which the signatures are obtained under this section shall state clearly that the purpose of the petition is to obtain an alcoholic beverage permit for a microbrewery-restaurant private club and to serve alcoholic beverages to members.

(4) The person obtaining signatures shall verify the signatures by affidavit that shall be filed with the county clerk at the time of filing the petition for certification.

History. Acts 2019, No. 681, § 1.

3-5-1908. Collection of taxes.

(a) The Secretary of the Department of Finance and Administration shall assess and collect delinquent state and local taxes from the owner or owners of the microbrewery-restaurant private club, file claims for unpaid taxes against bonds or other security required to be posted by

the permittee, and enforce liens against assets held by the owner or owners.

(b) The Alcoholic Beverage Control Division may suspend or refuse to renew a permit held by a nonpartner if the microbrewery-restaurant private club owner fails to remit state or local taxes.

History. Acts 2019, No. 681, § 1.

3-5-1909. Inspection of premises — Records of permitted premises and private clubs.

(a) A permit shall not be issued under this subchapter unless the permittee has consented in writing that the permitted premises and its books and records are open at all times to all law enforcement and tax officials and officials of the Alcoholic Beverage Control Division, the Alcoholic Beverage Control Enforcement Division, and the Secretary of the Department of Finance and Administration without requirement of warrant or other legal process.

(b) An entity holding a permit under this subchapter shall not market, sell, or otherwise furnish the names of its members or other information pertaining to its members to another public or private entity, except as provided in subsection (a) of this section.

History. Acts 2019, No. 681, § 1.

CHAPTER 6

NATIVE BRANDY LAW

SECTION.

3-6-103. Administration by Alcoholic Beverage Control Division.

SECTION.

3-6-106. Collection of fees and taxes.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

3-6-103. Administration by Alcoholic Beverage Control Division.

The Alcoholic Beverage Control Division or its successor shall have the right to regulate the manufacture and sale of the products authorized in § 3-6-102 and shall make reasonable rules governing the manufacture and sale thereof. Except as otherwise specifically provided in this chapter, all other laws now in effect governing the manufacture and sale of intoxicating liquors shall be deemed applicable.

History. Acts 1953, No. 163, § 7; A.S.A. 1947, § 48-712; Acts 2019, No. 315, § 84. deleted “and regulations” following “rules” in the first sentence.
Amendments. The 2019 amendment

3-6-106. Collection of fees and taxes.

- (a) The permit fees and the tax herein provided shall be collected in the same manner as all other liquor taxes and under such reasonable rules as the Secretary of the Department of Finance and Administration or his or her successor may provide.
- (b) The permit fees and taxes shall be deposited into the State Treasury as general revenues to the credit of the State Apportionment Fund, there to be allocated to the various funds, fund accounts, and accounts participating in general revenues in the respective proportions to each as provided by law and be used for the respective purposes set forth in the Revenue Stabilization Law, § 19-5-101 et seq.

History. Acts 1953, No. 163, § 8, as added by 1953, No. 118, § 36(A), as added by 1971, No. 585, § 12; A.S.A. 1947, § 48-713; Acts 2019, No. 910, § 3330. **Amendments.** The 2019 amendment substituted “Secretary” for “Director” in (a).

CHAPTER 7
EXCISE TAXES

- SUBCHAPTER.
1. GENERAL PROVISIONS.
 2. SPECIAL RETAIL TAX.
 3. PAYMENT BY WHOLESALERS AND IMPORTERS.
 4. BEER.
 5. WINE.

SUBCHAPTER 1 — GENERAL PROVISIONS

- | | |
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| SECTION. | SECTION. |
| 3-7-105. Malt liquor tax — Reporting and payments. | 3-7-107. Enforcement of rules. |
| 3-7-106. Shipping permits. | 3-7-108. Disposition of funds. |
| | 3-7-111. Additional taxes. |

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

3-7-105. Malt liquor tax — Reporting and payments.

(a) The excise tax levied on malt liquors by § 3-7-104 shall be reported and paid to the Secretary of the Department of Finance and Administration on or before the fifteenth day of the month following the month in which the wholesaler or other person authorized to sell malt liquors obtains delivery of such malt liquors from the supplier.

(b) The secretary shall provide forms necessary for reporting the tax due and shall enforce the tax pursuant to the Arkansas Tax Procedure Act, § 26-18-101 et seq.

History. Acts 1983, No. 826, § 3; A.S.A. 1947, § 48-402.2; Acts 2019, No. 910, § 3331.

Amendments. The 2019 amendment substituted "secretary" for "director" in (a) and (b).

3-7-106. Shipping permits.

(a)(1) It shall be unlawful for any person to ship or transport or cause to be shipped or transported into the State of Arkansas any spirituous liquors, vinous liquors, wines other than Arkansas wines, or beer or malt beverages from points without the state without first having obtained a permit from the Director of the Alcoholic Beverage Control Division.

(2) A railroad company, express company, or bonded truck company or truck line operating under a certificate or permit issued by the Arkansas Department of Transportation, or a river transportation company shall not receive for shipment or ship into this state any package or receptacle containing distilled spirits unless a copy of the permit showing that payment of the taxes required by law has been made accompanies the shipment.

(3) The permit shall be in such form as may be prescribed by the director, and all such shipments into the state shall be governed by such rules as may be promulgated by the director.

(4) However, the railroad or express company or river transportation company shall not be required to obtain any permit to transport distilled spirits but shall be subject to all rules promulgated by the director.

(b)(1) It shall be unlawful for any person who is permitted by law to manufacture, sell, or transport spirituous liquors, vinous liquors, wines other than Arkansas wines, or beer or malt beverages to transport or cause spirituous liquors, vinous liquors, wines other than Arkansas wines, or beer or malt beverages to be transported by any means of transportation except as may be prescribed by the rules of the director.

(2) However, spirits may be transported by truck or wagon from and to freight or express depots, to and from the place or places of business of the permittees and upon the premises of the permittees, from and to one (1) place of business to another place of business of the permittee, provided that the owner of trucks or wagons transporting distilled liquor as aforesaid, excepting trucks and wagons owned and operated by a railroad or express company, or bonded truck company or truck line operating under a certificate or permit issued by the Arkansas Department of Transportation, or a river transportation company, or by the person permitted by law to manufacture, sell, or transport spirituous liquors, vinous liquors, wines other than Arkansas wines, or beer or malt beverages shall procure a permit to engage in transportation and shall execute a bond satisfactory in amount, form, and as to surety, to be approved by the director, conditioned upon the lawful transportation of spirituous liquors, vinous liquors, wines other than Arkansas wines, or beer or malt beverages.

History. Acts 1935, No. 109, § 5; Pope's Dig., § 14177; Acts 1941, No. 356, § 5; A.S.A. 1947, § 48-404; Acts 2017, No. 707 §§ 1, 2; 2019, No. 315, §§ 85, 86.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (a)(3), (a)(4), and (b)(1).

3-7-107. Enforcement of rules.

(a) Sections 3-7-101 — 3-7-104 and 3-7-106 — 3-7-110 shall be administered and enforced by the Director of the Alcoholic Beverage Control Division and the Secretary of the Department of Finance and Administration.

(b) The Director of the Alcoholic Beverage Control Division and the Secretary of the Department of Finance and Administration are authorized and directed to issue permits as provided for in §§ 3-7-101 — 3-7-104 and 3-7-106 — 3-7-110, for the manufacture, sale, and transportation of distilled spirits and to enforce the license tax provisions of §§ 3-7-101 — 3-7-104 and 3-7-106 — 3-7-110 and the collection of the license taxes imposed hereby and to promulgate reasonable rules for those purposes.

History. Acts 1935, No. 109, § 8; Pope's Dig., § 14180; A.S.A. 1947, § 48-406; Acts 2019, No. 315, § 87; 2019, No. 910, § 3332.

Amendments. The 2019 amendment

by No. 315 deleted "and regulations" following "rules" in (b).

The 2019 amendment by No. 910 substituted "Secretary" for "Director" in (a) and (b).

3-7-108. Disposition of funds.

All taxes, penalties, and costs collected by the Secretary of the Department of Finance and Administration under the provisions of §§ 3-7-101 — 3-7-104 and 3-7-106 — 3-7-110 shall be general revenues and shall be deposited into the State Treasury to the credit of the State Apportionment Fund. The Treasurer of State, on or before the fifth day of the month next following the month during which such funds shall have been received by him or her, shall allocate and transfer the funds to the various State Treasury funds in the proportions to each as provided by law, after first transferring to the General Revenue Fund Account of the State Apportionment Fund an amount equivalent to the cost of collection and other charges as also provided by law.

History. Acts 1935, No. 109, § 9, as added by 1947, No. 108, § 2; A.S.A. 1947, § 48-407; Acts 2019, No. 910, § 3333. substituted “Secretary” for “Director” in the first sentence; and inserted “Account” in the second sentence.

Amendments. The 2019 amendment

3-7-111. Additional taxes.

(a)(1) In addition to all other fees and taxes now imposed by law, there are levied and shall be collected the following additional fees and taxes:

(A) An additional tax of five cents (5¢) per case on each case of native wine produced and sold in this state, including light wines, wine coolers, and any other mixture containing the fermented juices of grapes, berries, fruits, or vegetables regardless of the percentage of alcoholic content, the tax to be paid by the manufacturer of the wine;

(B) A consumer enforcement tax of twenty-five cents (25¢) per thirty-two-gallon barrel of beer that may be passed on by the retailer to the consumer or may be absorbed by the retailer, the tax to be collected by the beer wholesalers acting as agent for the state;

(C) In addition to the fee imposed for the privilege of operating a dispensary under § 3-4-604, an additional fee of four hundred fifty dollars (\$450) for the issuance of each permit; and

(D) In addition to the permit fee now imposed under § 3-4-605 for the privilege of storing, transporting, and selling at wholesale spirituous, vinous, or malt liquors, an additional tax of nine thousand three hundred dollars (\$9,300).

(2) All additional permit fees and taxes imposed under subdivisions (a)(1)(B)-(D) of this section shall be levied and collected in the same manner as now provided by law.

(3) The tax imposed by subdivision (a)(1)(A) of this section shall be reported monthly by the manufacturer on all sales made in the State of Arkansas to Arkansas wholesalers, retailers, or consumers, and the manufacturer shall remit the tax with each report.

(4) All additional permit fees and taxes levied by subdivisions (a)(1)(A)-(D) of this section shall be deposited into the State Treasury as general revenues and credited to the State Apportionment Fund. These

amounts shall be allocated and transferred to the various funds, fund accounts, and accounts participating in general revenues in the respective proportions to each as provided by law and shall be used for the respective purposes set forth in the Revenue Stabilization Law, § 19-5-101 et seq.

(b)(1) There are levied and there shall be collected as provided by law and rule:

(A) A tax at the rate of twenty cents (20¢) per case on liquor, cordials, liqueurs, premixed spirituous liquors, and specialties having an alcoholic content of twenty-one percent (21%) or more by weight;

(B) A tax at the rate of five cents (5¢) per case on liquor, cordials, liqueurs, premixed spirituous liquors, light spirituous liquors, and specialties having an alcoholic content of less than twenty-one percent (21%) alcohol by weight; and

(C) A tax at the rate of five cents (5¢) per case on sparkling and still wines, including light wines, regardless of alcoholic content.

(2) These taxes shall be paid by the wholesaler and shall not be passed on by the wholesaler to the retailer or the public. These taxes shall be paid on all such merchandise sold or offered for sale in the State of Arkansas and shall be in addition to any and all other taxes heretofore or hereafter levied and collected on that merchandise.

(3) All taxes, penalties, fines, and costs received by the Secretary of the Department of Finance and Administration under the provisions of this subsection shall be deposited into the State Treasury as general revenues to the credit of the State Apportionment Fund. There those amounts shall be allocated to the various funds, fund accounts, and accounts participating in general revenues in the respective proportions to each as provided by law and shall be used for the respective purposes set forth in the Revenue Stabilization Law, § 19-5-101 et seq.

(4) Any person who violates any of the provisions of this subsection shall be guilty of a violation and upon conviction shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

History. Acts 1949, No. 282, §§ 13, 15; 1949, No. 282, § 14, as added by 1953, No. 118, § 36(B), as added by 1971, No. 585, § 12; 1953, No. 385, § 1; 1969, No. 271, § 1; 1969, No. 271, § 2, as added by 1953, No. 118, § 36(C), as added by 1971, No. 585, § 12; A.S.A. 1947, §§ 48-418, 48-419, 48-1213 — 48-1215; Acts 1987, No. 424, §§ 7, 8; 2005, No. 1994, § 33; 2009, No. 294, § 19; 2019, No. 910, § 3334.

Amendments. The 2019 amendment substituted “Secretary” for “Director” in the first sentence of (b)(3).

SUBCHAPTER 2 — SPECIAL RETAIL TAX

SECTION.

3-7-201. Tax imposed — Collection.

3-7-202. Lien — Procedure for obtaining.

3-7-203. Lien — Execution.

SECTION.

3-7-204. Alternative remedies.

3-7-205. Disposition of funds.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

3-7-201. Tax imposed — Collection.

(a)(1) There is levied a special alcoholic beverage excise tax of three percent (3%) upon all retail receipts or proceeds derived from the sale of liquor, cordials, liqueurs, specialties, and sparkling and still wines. The tax shall be and is in addition to all other taxes now imposed and cumulative to the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.

(2) Native wine sold at retail in this state shall be subject to the special alcoholic beverage excise tax levied upon all retail receipts or proceeds derived from the sale of liquor, cordials, liqueurs, specialties, and sparkling and still wines under the provisions of this section.

(b) It shall be the duty of every retailer in this state to collect the tax from the consumer in addition to the established retail price of beer, liquor, cordials, liqueurs, specialties, and sparkling and still wines and to file a return and remittance with the Secretary of the Department of Finance and Administration on or before the twentieth day of each calendar month for the preceding month.

(c) Failure to file the return and remittance on the due date shall be cause for the secretary to enter an assessment for the return and remittance and add as a penalty ten percent (10%) of the amount of tax found to be due.

(d) Returns shall be filed upon forms prescribed by the secretary in accordance with such rules as the secretary may promulgate hereunder.

(e) The State Board of Education and the Division of Elementary and Secondary Education shall fully budget, fund, and expend or commit to expend the general revenue replacing the revenue derived from the previously imposed special alcoholic beverage excise tax on beer in addition to any other funding provided by law for essential programs such as subsidized child care for low-income families, the Arkansas Better Chance Program, and the Child Care and Early Childhood Education Fund Account in an amount equal to the appropriation level for the Arkansas Better Chance Program.

(f)(1) There is levied a special alcoholic beverage excise tax of one percent (1%) upon all retail receipts or proceeds derived from the sale of beer.

(2) The revenues derived from the excise tax on beer levied under subdivision (f)(1) of this section shall be deposited into the General Revenue Fund Account of the State Apportionment Fund to be distributed as general revenue.

History. Acts 1951, No. 252, § 3; 1953, No. 118, § 32(D); 1985, No. 1052, § 3; A.S.A. 1947, §§ 48-411, 48-608.2; Acts 2001, No. 1841, § 1; 2003, No. 272, § 1; 2005, No. 2188, § 1; 2007, No. 869, § 1; 2011, No. 982, § 2; 2019, No. 315, § 88; 2019, No. 910, § 3335.

Amendments. The 2019 amendment

by No. 315 substituted “rules” for “regulations” in (d).

The 2019 amendment by No. 910 substituted “secretary” for “director” in (b), (c), and twice in (d); and substituted “Division of Elementary and Secondary Education” for “Department of Education” in (e).

3-7-202. Lien — Procedure for obtaining.

(a) If the taxpayer fails to demand a hearing before the Secretary of the Department of Finance and Administration within twenty (20) days after an assessment of the tax due the state has been made under this subchapter or, if the taxpayer shall fail to pay the tax assessed by the secretary after a hearing and an order by the secretary establishing the tax, as hereinbefore provided, then the secretary may as soon as practicable thereafter issue to the circuit clerk of any county of the state a certificate certifying that the person therein named is indebted to the state for the tax established by the secretary to be due.

(b) The circuit clerk shall immediately enter upon the circuit court judgment docket the name of the delinquent taxpayer, the amount certified as being due, a short name of the tax, and the date of the entry upon the judgment docket.

(c) The entry shall have the same force and effect as an entry on the judgment docket of a judgment rendered by the circuit court of the county and shall constitute and be evidence of the state’s lien upon the title to any interest in any real property of the taxpayer named in the certificate.

(d) The entry of the certificate as a judgment shall constitute, in addition to the force and effect above described, a lien also upon all personal property of the taxpayer named therein from the time of the entry of the certificate.

(e) The lien shall be in addition to any and all other liens existing in favor of the state to secure the payment of the unpaid tax, penalty, interest, and costs. The lien shall be paramount and superior to all other liens of whatever kind and character attaching to any of the property subsequent to the date of the entry upon judgment docket.

History. Acts 1957, No. 410, § 1; A.S.A. 1947, § 48-411.1; Acts 2019, No. 910, § 3336.

Amendments. The 2019 amendment substituted “secretary” for “director” throughout (a).

3-7-203. Lien — Execution.

(a) On the entry of the certificate of the Secretary of the Department of Finance and Administration, the circuit clerk shall issue an execution directed to the sheriff of the county, commanding him or her to levy upon and against all real and personal property of the taxpayer, which execution shall be by the clerk placed in the hands of the sheriff for levying thereon. The secretary shall thereby have all the remedies and may take all the proceedings for the collection of the tax which may be had or taken upon the recovery of a judgment at law.

(b) The execution shall be issued and be served or executed in the same manner as now provided for the issuance and service of executions upon judgments rendered by the circuit courts of this state.

(c) The circuit clerks and the sheriffs shall be entitled to receive the same fees now provided for by law in such matters. The fees shall be collected from the taxpayer by the sheriff in addition to the tax, penalties, and interest included in the certificate of indebtedness.

(d) However, in the event the sheriff is unable, after diligent effort, to effect collection of the tax, interest, penalties, and costs, the secretary shall be empowered and authorized to pay such fees as are properly shown to be due to the clerk and sheriff out of the Miscellaneous Tax Refund Account.

History. Acts 1957, No. 410, § 1; A.S.A. 1947, § 48-411.1; Acts 2019, No. 910, §§ 3337, 3338.

Amendments. The 2019 amendment substituted “secretary” for “director” in (a) twice, and in (d).

3-7-204. Alternative remedies.

Nothing in this subchapter shall preclude the Secretary of the Department of Finance and Administration from resorting to any other legal means of collecting taxes as may now be provided by law. The issuance of a certificate of indebtedness, the entry thereof by the clerk, and the levy of execution, as provided herein, shall not constitute an election of remedies in respect to the collection of the tax.

History. Acts 1957, No. 410, § 1; A.S.A. 1947, § 48-411.1; Acts 2019, No. 910, § 3339.

Amendments. The 2019 amendment substituted “Secretary” for “Director”.

3-7-205. Disposition of funds.

All taxes, interest, penalties, and costs received by the Secretary of the Department of Finance and Administration under the provisions of this subchapter shall be general revenues and shall be deposited in the State Treasury to the credit of the State Apportionment Fund. The Treasurer of State shall allocate and transfer the revenues to the various State Treasury funds participating in general revenues in the respective proportions to each as provided by and to be used for the respective purposes set forth in the Revenue Stabilization Law, § 19-5-101 et seq.

History. Acts 1951, No. 252, § 3; 1953, No. 118, § 32(D); A.S.A. 1947, § 48-411; Acts 2019, No. 910, § 3340.

Amendments. The 2019 amendment substituted “Secretary” for “Director” in the first sentence.

SUBCHAPTER 3 — PAYMENT BY WHOLESALERS AND IMPORTERS

SECTION.

3-7-302. Monthly report and payment.
3-7-303. Records — Penalties.

SECTION.

3-7-306. Right to contract.
3-7-307. Rules — Sales to the military.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

3-7-302. Monthly report and payment.

(a) Each licensee responsible for the payment of excise tax shall file on or before the fifteenth day of each month a verified report on forms provided by the Secretary of the Department of Finance and Administration showing, for the preceding calendar month, the exact quantity of spirituous liquor:

- (1) Constituting the beginning and ending inventory for the month;
- (2) Shipped to him or her from outside this state and received by him or her in this state;
- (3) Sold or disposed of by him or her in this state;
- (4) Sold by him or her in this state to an agency of the United States Armed Forces, to which sale the excise tax is not applicable and for which the wholesaler would be entitled to credit for taxes previously paid; and
- (5) Returned to the manufacturer, to which transfer the excise tax is not applicable and for which the wholesaler would be entitled to credit for taxes previously paid.

(b) The report on forms prescribed by the secretary shall also show the amount of excise tax payable after allowance for all proper deductions for all spirituous liquors received by him or her in this state and shall include such additional information as the secretary may require for the proper administration of this subchapter.

(c) Payment of the excise tax levied by law in the amount disclosed by the report shall accompany the report and shall be paid to the secretary.

History. Acts 1971, No. 296, § 3; A.S.A. 1947, § 48-424; Acts 2019, No. 910, §§ 3341, 3342.

Amendments. The 2019 amendment substituted “secretary” for “director” throughout the section.

3-7-303. Records — Penalties.

(a) Each wholesale distributor and importer of spirituous liquors required to file a return shall keep such complete and accurate books, papers, invoices, and other records as may be necessary to substantiate the accuracy of his or her report and the amount of excise tax due and shall retain the records for not less than three (3) years, subject to the use and inspection of the Secretary of the Department of Finance and Administration or his or her agents.

(b) Any person required by this subchapter to retain books, papers, invoices, and other records who fails to produce them upon demand by the secretary or his or her agent or agents of the Alcoholic Beverage Control Division or its successor agency, unless the failure to produce is due to providential or other causes beyond his or her control, shall be guilty of a Class A misdemeanor.

History. Acts 1971, No. 296, §§ 3, 4; A.S.A. 1947, §§ 48-424, 48-425; Acts 2005, No. 1994, § 335; 2019, No. 910, § 3343.

Amendments. The 2019 amendment substituted “secretary” for “director” in (a) and (b).

3-7-306. Right to contract.

To strengthen enforcement of this subchapter, the wholesalers, importers, manufacturers, and suppliers to whom this subchapter is applicable shall have the right to contract with each other to provide a distribution system best adapted, under proper rules, to ensure payment of the taxes provided by law and to minimize the possibility of tax loss to this state.

History. Acts 1971, No. 296, § 9; A.S.A. 1947, § 48-430; Acts 2019, No. 315, § 89.

Amendments. The 2019 amendment substituted “rules” for “regulations”.

3-7-307. Rules — Sales to the military.

The Secretary of the Department of Finance and Administration shall continue the present, and if necessary promulgate additional rules to relieve wholesale distributors and importers from the liability of paying the excise tax levied and imposed on beverages covered by this subchapter which are sold to agencies of the United States Armed Forces.

History. Acts 1971, No. 296, § 5; A.S.A. 1947, § 48-426; Acts 2019, No. 315, § 90; 2019, No. 910, § 3344.

Amendments. The 2019 amendment deleting “Rules” in the section heading and in the section.

Amendments. The 2019 amendment by No. 910 substituted “Secretary” for “Director”.

SUBCHAPTER 4 — BEER

SECTION.

3-7-401. Reports and payments.

3-7-404. Rules.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

3-7-401. Reports and payments.

(a) The Director of the Alcoholic Beverage Control Division is authorized and directed to adopt and issue rules to protect the revenue of this state, prescribing a reporting method for paying and collecting the excise tax on beer.

(b) The rules shall require the reports to be filed with the Alcoholic Beverage Control Division on or before the fifteenth day of the month following the month in which the wholesaler acquired possession of or title to the beer.

(c) The reports required by the rules shall be in lieu of those provisions of § 3-7-106 relating to the necessity to obtain transportation permits for beer.

(d) The reporting method and payment thereunder, within the time prescribed by this section and in the manner prescribed by the director, shall constitute a compliance as to sale, purchase, import, warehousing, transporting, and handling of beer, the transportation of beer in this state, and the obtaining of a permit prior to the transportation of beer into this state pursuant to § 3-7-106.

History. Acts 1953, No. 179, § 2; A.S.A. 1947, § 48-413; Acts 2019, No. 315, § 91.

Amendments. The 2019 amendment

deleted “and regulations” following “rules” in (a) and (b); and substituted “rules” for “regulations” in (c).

3-7-404. Rules.

(a) The rules required by § 3-7-401 pertaining to a reporting method for paying and collecting excise tax on beer shall be adopted and promulgated by the Secretary of the Department of Finance and Administration.

(b) The rules shall be jointly enforced by both the secretary and the Alcoholic Beverage Control Board.

(c) The Director of the Alcoholic Beverage Control Division shall have authority to promulgate rules pertaining to the possession, transportation, or importation of beer into the State of Arkansas.

(d) The express purpose of this section is to carry out the intention of §§ 3-7-401 — 3-7-403 to provide authority for protecting the state against loss of revenues derived from the levy of the excise tax on beer. The secretary shall have full authority to adopt whatever rules he or she may deem necessary to this end.

History. Acts 1953, No. 373, §§ 1-3; A.S.A. 1947, §§ 48-415 — 48-417; Acts 2019, No. 315, § 92; 2019, No. 910, § 3345.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” fol-

lowing “Rules” in the section heading; and deleted “and regulations” following “rules” throughout the section.

The 2019 amendment by No. 910 substituted “Secretary” for “Director” in (a), (b), and (d).

SUBCHAPTER 5 — WINE

SECTION.

3-7-501. Rules generally.

3-7-502. Reports and payment.

SECTION.

3-7-505. Joint enforcement.

Effective Dates. Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

3-7-501. Rules generally.

(a) The Secretary of the Department of Finance and Administration is authorized and directed to adopt and issue rules to protect the revenues of this state by prescribing a reporting method for paying and collecting the tax on wines.

(b) Rules shall provide a method of tax credit for wines sold to United States military installations or returned to the manufacturer, on which excise taxes are not required.

(c) There will be no change in the present system of reporting the tax on native Arkansas wines.

History. Acts 1971, No. 310, §§ 2-4; A.S.A. 1947, §§ 48-432 — 48-434; Acts 2019, No. 315, § 93; 2019, No. 910, § 3346.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” fol-

lowing “Rules” in the section heading and in (a); and substituted “Rules” for “Regulations” in (b).

The 2019 amendment by No. 910 substituted “Secretary” for “Director” in (a).

3-7-502. Reports and payment.

The rules shall require reports to be filed with the Secretary of the Department of Finance and Administration on or before the fifteenth day of the month following the month in which the wholesaler or importer of wines shall obtain delivery of wines from the supplier. The tax due shall accompany this report.

History. Acts 1971, No. 310, § 2; A.S.A. 1947, § 48-432; Acts 2019, No. 315, § 94; 2019, No. 910, § 3347.

by No. 315 deleted “and regulations” following “rules” in the first sentence.

The 2019 amendment by No. 910 substituted “Secretary” for “Director”.

Amendments. The 2019 amendment

3-7-505. Joint enforcement.

The Secretary of the Department of Finance and Administration and the Alcoholic Beverage Control Division or its successor agency shall jointly enforce the provisions of this subchapter.

History. Acts 1971, No. 310, § 6; A.S.A. 1947, § 48-436; Acts 2019, No. 910, § 3348.

Amendments. The 2019 amendment substituted “Secretary” for “Director”.

CHAPTER 8 LOCAL OPTION

SUBCHAPTER.

2. PROCEEDINGS PURSUANT TO INITIATED ACT.

SUBCHAPTER 2 — PROCEEDINGS PURSUANT TO INITIATED ACT

SECTION.

3-8-209. Sales or furnishing place for sale
in dry territory prohibited
— Penalty.

3-8-209. Sales or furnishing place for sale in dry territory prohibited — Penalty.

(a) Except as provided in § 3-5-1901 et seq., it is unlawful for a person, firm, or corporation to manufacture, sell, barter, loan, or give away intoxicating liquor in a county, township, municipality, ward, or precinct in which the manufacture or sale of intoxicating liquor is prohibited under Initiated Act No. 1 of 1942, §§ 3-8-201 — 3-8-203 and 3-8-205 — 3-8-209.

(b)(1) Upon a first conviction, any person or officers of any firm or corporation that shall manufacture, sell, barter, loan, or give away any intoxicating liquor in any territory which has been made dry under the provisions of this subchapter shall be guilty of a violation and shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

(2) For a second conviction, he or she shall be guilty of a violation and fined not less than two hundred dollars (\$200) nor more than two thousand dollars (\$2,000), and for any subsequent conviction shall be guilty of a Class D felony.

(c) Any person or officers of a firm or corporation that knowingly furnishes or rents a house, room, wagon, vehicle, or any conveyance or thing in which intoxicating liquor is manufactured or sold, bartered, loaned, or given away in violation of prohibition secured under the provisions of this subchapter is declared to be a particeps criminis and upon conviction shall be subject to the same punishment as the principal. The house, room, wagon, vehicle, conveyance, or other thing in which the intoxicating liquor is manufactured or sold, bartered, loaned, or given away shall be liable for all fines adjudged against either the principal or the particeps criminis, or both, as defined in this subsection.

History. Init. Meas. 1942, No. 1, § 3, Acts 1943, p. 998; A.S.A. 1947, § 48-803; Acts 2005, No. 1964, § 6; 2005, No. 1994, § 419; 2019, No. 681, § 2.

Amendments. The 2019 amendment,

in (a), substituted “Except as provided in § 3-5-1901 et seq., it is” for “It shall be”, substituted “prohibited under” for “or shall be prohibited under the provisions of”; and made stylistic changes.

SUBCHAPTER 8 — CIRCULATION OF PETITION FOR LOCAL OPTION ELECTION

CASE NOTES

Constitutionality.

Rational-basis test applied to a county resident's constitutional challenge to the local-option framework set forth in this subchapter, as the holding of a liquor license is a privilege, not a fundamental right; further, the rational-basis test is used when a statute falls within the legislature's police powers to regulate an industry of general public interest, and the regulation of alcohol is of general public interest. *Brennan v. White Cty.*, 2019 Ark. App. 146, 573 S.W.3d 577, cert. denied, 205 L. Ed. 2d 220 (U.S. 2019).

County resident failed to show that the local-option framework set forth in this subchapter was not rationally related to achieving any legitimate governmental objective given the correlation between alcohol misuse and detrimental effects on

a person's health. *Brennan v. White Cty.*, 2019 Ark. App. 146, 573 S.W.3d 577, cert. denied, 205 L. Ed. 2d 220 (U.S. 2019).

County resident's challenge to the effectiveness of the local-option framework set forth in this subchapter was rejected, as effectiveness in furthering the government interest is not a factor in determining a statute's constitutionality under the rational-basis test. *Brennan v. White Cty.*, 2019 Ark. App. 146, 573 S.W.3d 577, cert. denied, 205 L. Ed. 2d 220 (U.S. 2019).

The exemption for private clubs in § 3-9-221 had not rendered the local-option framework set forth in this subchapter, § 3-8-801 et seq., irrational as the statutes could be read in harmony. *Brennan v. White Cty.*, 2019 Ark. App. 146, 573 S.W.3d 577, cert. denied, 205 L. Ed. 2d 220 (U.S. 2019).

CHAPTER 9
ON-PREMISES CONSUMPTION

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 2. ALCOHOLIC BEVERAGES GENERALLY.
- 3. WINE.
- 6. WINE AND BEER ON-PREMISES LICENSE.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

3-9-101. Nudity on premises prohibited
— Penalty — Rules.

3-9-101. Nudity on premises prohibited — Penalty — Rules.

(a) No person who has received a permit under any law of the State of Arkansas for the sale or dispensing of alcoholic beverages for on-premises consumption shall suffer or permit any person to appear on the permitted premises in such manner or attire as to expose to view any portion of the pubic area, anus, vulva, or genitals or any simulation thereof, nor suffer or permit any female to appear on the premises in such manner or attire as to expose to view any portion of her breast below the top of the areola or any simulation thereof.

(b) Any hotel-motel-restaurant mixed drink permittee or private club permittee violating this section shall be subject to the penalties prescribed in §§ 3-9-201 — 3-9-214, 3-9-221 — 3-9-225, and 3-9-232 — 3-9-237 for the violation of those sections.

(c) The Alcoholic Beverage Control Board shall promulgate such rules as it deems necessary for the implementation of this section.

History. Acts 1985, No. 965, §§ 1, 2; A.S.A. 1947, §§ 48-956, 48-957; Acts 2019, No. 315, § 95. **Amendments.** The 2019 amendment substituted “rules” for “regulations” in (c).

SUBCHAPTER 2 — ALCOHOLIC BEVERAGES GENERALLY

SECTION.

- 3-9-202. Definitions.
- 3-9-205. Rules — Police power of state and local governments.
- 3-9-210. Permit to sell beverages — Issuance.
- 3-9-211. Permit to sell beverages — Scope — Effect on other laws.
- 3-9-213. Gross receipts and supplemental taxes on sale of alcoholic beverages.
- 3-9-221. Private clubs — Exception from alcoholic beverage laws.

SECTION.

- 3-9-223. Private clubs — Permit renewal fees — Taxes.
- 3-9-225. Private clubs — Rules.
- 3-9-229. Collection of taxes.
- 3-9-232. Inspection of premises and records of licensed premises and private clubs.
- 3-9-233. Closing hours.
- 3-9-234. Failure to pay renewal fees or taxes.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

3-9-202. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) “Alcoholic beverages” means all intoxicating liquors of any sort, other than beer and wine as described and regulated in §§ 3-5-301 — 3-5-307, and 3-9-301 et seq., respectively;

(2) “Bed and breakfast private club” means a corporation, partnership, individual, or limited liability corporation whose primary function is to provide overnight accommodations to the public, not exceeding a total of twenty (20) guest rooms on the premises, whether operated by the business owner or not, where the owner or a person representing the owner lives on the premises, where a breakfast meal is served to the lodging guest, and where no restaurant on the premises is open to the public except for the lodging guest;

(3) “Board” means the Alcoholic Beverage Control Board of this state, or its successor agency;

(4) “City” means any city of the first class or city of the second class in this state;

(5) “Director” means the Director of the Alcoholic Beverage Control Division;

(6) “Dry area” means any area in which the manufacture or sale of intoxicating liquor is prohibited by a local option election heretofore or hereafter held pursuant to the Initiated Act;

(7) “Guest” means a person who orders and is served a meal inside a restaurant during regular hours;

(8) “Hotel” means every building or other structure commonly referred to as a hotel, motel, motor hotel, motor lodge, or by similar name, which is kept, used, maintained, advertised, and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers or guests, whether transient, permanent, or residential, in which fifty (50) or more rooms are used for the sleeping accommodations of such guests, and having one (1) or more public dining rooms with adequate and sanitary kitchen facilities, and a seating capacity for at least fifty (50) persons, where meals are regularly served to such guests, such sleeping accommodations and dining room being conducted in the same building

or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation;

(9) “Initiated Act” means Initiated Act No. 1 of 1942, as amended, §§ 3-8-201 — 3-8-203 and 3-8-205 — 3-8-209, which establishes the procedure for local option elections to prohibit the manufacture or sale of intoxicating liquor;

(10) “Large event facility” means a facility that houses convention center activity, tourism activity, trade show and product display and related meeting activity, or any other similar large meeting or attendance activity and that either itself or through one (1) or more independent contractors complies with all of the following:

(A) Serves full and complete meals and food on the premises;

(B) Has one (1) or more places for food service on the premises with a seating capacity for not fewer than five hundred (500) people; and

(C) Employs a sufficient number and kind of employees to serve meals and food on the premises capable of handling at least five hundred (500) people;

(11) “Meal” means the usual assortment of food commonly ordered at various hours of the day;

(12) “On-premises consumption” means the sale of alcoholic beverages by the drink or in broken or unsealed containers for consumption on the premises where sold;

(13) “Person” means any natural person, partnership, association, or corporation;

(14)(A)(i) “Private club” means a nonprofit corporation organized and existing under the laws of this state, no part of the net revenues of which shall inure directly or indirectly to the benefit of any of its members or any other individual, except for the payment of bona fide expenses of the club’s operations, and which is conducted for some common recreational, social, patriotic, political, national, benevolent, athletic, community hospitality, professional association, entertainment, or other nonprofit object or purpose other than the consumption of alcoholic beverages.

(ii) The nonprofit corporation shall have been in existence for a period of not less than one (1) year before applying for a permit, as prescribed in this subchapter.

(iii) At the time of application for the permit, the nonprofit corporation must have not fewer than one hundred (100) members and at the time of application must own or lease, be the holder of a buy-sell agreement or offer and acceptance, or have an option to lease a building, property, or space therein for the reasonable comfort and accommodation of its members and their families and guests and restrict the use of club facilities to those persons.

(B) For purposes of this subdivision (14), a person shall be required to become a member of the private club in any wet area of the state only upon ordering an alcoholic beverage as defined under subdivision (1) of this section.

(C) Furthermore, where the business entity that holds a private club permit additionally holds a retail beer permit, retail wine for

consumption on the premises permit, or cafe or restaurant wine permit, the hours of operation authorized for the private club shall likewise apply to all permits of the business entity;

(15) "Referendum election" means an election held as provided in this subchapter, at which the electors of a city or county shall vote on the question of authorizing, as provided herein, the sale of alcoholic beverages for on-premises consumption in those areas of the city or county in which the lawful sale of alcoholic beverages has not been prohibited by a local option election held pursuant to the Initiated Act; and

(16) "Restaurant" means any public or private place:

(A)(i) That is primarily engaged in the business of serving a meal for consumption on the premises to a guest and has a suitable kitchen facility to serve the entire menu approved by the Alcoholic Beverage Control Division.

(ii) The menu shall contain a selection of food and shall not be limited to sandwiches or salads.

(iii) The kitchen shall:

(a) Have adequate refrigeration to preserve the food on the menu;

(b) Be kept in a sanitary condition; and

(c) Comply with the rules of the Department of Health.

(iv) Food from the menu shall be available from opening time until two (2) hours before closing time; or

(B)(i) That qualifies as a "large meeting or attendance facility", which is defined, without limitation, as a facility housing convention center activity, tourism activity, trade show and product display and related meeting activity, or any other similar large meeting or attendance activity and which either itself or through one (1) or more independent contractors complies with all of the following:

(a) Actually serves full and complete meals and food on the premises;

(b) Has one (1) or more places for food service on the premises with a seating capacity for not fewer than five hundred (500) people;

(c) Employs a sufficient number and kind of employees to serve meals and food on the premises capable of handling at least five hundred (500) people; and

(d) Serves alcoholic beverages on the premises at one (1) or more places only on days that meals and food are served at one (1) or more places on the premises.

(ii)(a) Any on-premises restaurant permittee as licensed by subdivision (16)(A) of this section and any hotel or motel on-premises permittee as licensed by subdivision (8) of this section shall be allowed to serve alcoholic beverages purchased under its permit at any large meeting or attendance facility which is licensed under this subdivision (16)(B). Hotel, motel, and restaurant permittees may serve alcoholic beverages purchased under their permits only when they have first secured written permission from the permittee of the large meeting or attendance facility. Otherwise, alcoholic beverage

service at the large meeting or attendance facility shall be from inventory purchased by the large meeting or attendance facility permittee.

(b) Written permission shall not be granted for more than a five-day period. The Alcoholic Beverage Control Division shall be given a copy of any such written agreement. Any violations which occur while such permission is being used shall lie against the hotel, motel, or restaurant using such permission.

(c) Any hotel, motel, or restaurant that serves its alcoholic beverages at a large meeting or attendance facility shall only do so pursuant to a satellite catering permit to be issued by the division for an annual fee of five hundred dollars (\$500) per fiscal year or part thereof. The permit shall be applied for on forms as prescribed by the board.

(d) The board shall promulgate such rules as it deems necessary to implement subdivisions (16)(B)(ii)(a)-(c) of this section.

(iii) When a large attendance facilities permit has been issued to a government-owned facility located in a county that has a population of more than one hundred fifty-five thousand (155,000) according to the 2000 Federal Decennial Census, Arkansas-licensed beer wholesalers shall be allowed to pay for advertising devices used at the government-owned facility. Such advertising devices shall include items such as inside or outside signs, scoreboards, programs, scorecards, and the like. Provided, if such advertising by the beer wholesaler results in the formation or existence of an exclusive buying arrangement by the large attendance facilities permittee and the wholesaler who furnishes such items, then such an exclusive buying arrangement will be a violation of the large attendance facilities permit and the wholesale beer permit involved even if the arrangements are caused by third parties. To the extent that § 3-5-214 or any other law could be interpreted to preclude such advertising arrangements allowed in this subdivision (16)(B)(iii), they are held inapplicable.

(iv)(a) When a large attendance facilities permit has been issued to a facility owned or operated by the owner of a professional sports team franchised by Minor League Baseball and within a county that has a population of more than one hundred fifty-five thousand (155,000) according to the 2000 Federal Decennial Census, the operator of the facility may accept sponsorship funds, advertising items, or promotional items from licensed beer wholesalers. Promotional items shall include items used by the facility to promote attendance.

(b) However, if the use of sponsorship funds, advertising items, or promotional items by the beer wholesaler results in the formation or existence of an exclusive buying arrangement by the large attendance facilities permittee and the wholesaler who furnishes the sponsorship funds, advertising items, or promotional items, then the exclusive buying arrangement will be a violation of the large atten-

dance facilities permit and the wholesaler's wholesale beer permit even if the arrangements are caused by third parties.

(c) Section 3-5-214 or any other law that could be interpreted to preclude arrangements to use the sponsorship funds, advertising items, or promotional items allowed in this subdivision (16)(B)(iv) shall not apply to this subdivision (16)(B)(iv).

History. Acts 1969, No. 132, § 2; 1985, 2003, No. 1813, § 1; 2005, No. 445, § 1; No. 384, § 1; A.S.A. 1947, § 48-1402; Acts 2007, No. 642, § 1; 2011, No. 1194, § 2; 1989, No. 295, § 3; 1989, No. 837, § 1; 2013, No. 1100, §§ 1, 2; 2019, No. 315, 1989, No. 953, § 1; 1993, No. 403, § 2; §§ 96, 97. 1995, No. 536, § 2; 1995, No. 600, § 1; **Amendments.** The 2019 amendment 1999, No. 1063, § 1; 1999, No. 1371, § 1; substituted "rules" for "regulations" in 1999, No. 1597, § 1; 2003, No. 369, § 1; (16)(A)(iii)(c) and (16)(B)(ii)(d).

3-9-205. Rules — Police power of state and local governments.

(a) The Alcoholic Beverage Control Board is authorized to adopt and enforce reasonable rules governing the qualifications for permits hereunder, the operation of licensed premises, and otherwise implementing and effectuating the provisions and purposes of this subchapter and, in so doing, shall be guided, insofar as pertinent, by rules now or hereafter applicable to retail liquor outlets.

(b) Nothing in this subchapter, however, shall be construed as limiting the power of other proper state or local governmental bodies to regulate the operation of establishments under this subchapter as may be necessary for the protection of public health, welfare, safety, and morals.

History. Acts 1969, No. 132, § 12; 1973, No. 387, § 1; 1975, No. 137, § 1; A.S.A. 1947, § 48-1412; Acts 2019, No. 315, § 98. **Amendments.** The 2019 amendment deleted "and regulations" following "rules" twice in (a).

3-9-210. Permit to sell beverages — Issuance.

(a)(1) Any hotel or restaurant as defined in § 3-9-202 desiring to sell alcoholic beverages for on-premises consumption shall make application to the Director of the Alcoholic Beverage Control Division for a permit upon forms prescribed and furnished by the director and in accordance with the rules of the Alcoholic Beverage Control Board.

(2)(A) If the hotel or restaurant is owned by a partnership, whether regular or limited, a nonpartner manager or operator may be issued the permit provided that he or she meets the other qualifications required by this section.

(B) The failure of one (1) or more partners to be residents of this state shall not be grounds for denial of the permit.

(b) No applicant shall be authorized to make any such sales until a permit is approved and issued by the director.

(c) The board shall have authority to require an applicant, under oath, to disclose the following information:

- (1) The name of the applicant;
 - (2) Location of the hotel or restaurant;
 - (3) Sufficient data to establish that the applicant meets the requirements of § 3-9-202;
 - (4) The names and addresses of all owners of the hotel or restaurant;
 - (5) That the applicant is a citizen or resident alien of the United States and a resident of Arkansas on the date of application, and if a corporation, duly qualified to do business in this state;
 - (6) That neither the applicant nor any person to be employed in the serving of beverages authorized herein shall be a person who has been convicted within five (5) years of the date of his or her employment of any violation of the laws against possession, sale, manufacture, or transportation of intoxicating liquor, or convicted of a felony;
 - (7) That the manager or operator of the hotel or restaurant seeking the permit is of good moral character and not a convicted felon; and
 - (8) Such other relevant information as may be required.
- (d) Every permit issued under this subchapter shall be for an indeterminate period, subject to compliance with the annual renewal requirements herein prescribed and shall not be transferable or assignable, as to owner or premises, except upon the written approval of the director.

History. Acts 1969, No. 132, § 5; A.S.A. 1947, § 48-1405; Acts 1991, No. 606, § 7; 1997, No. 222, § 1; 2019, No. 315, § 99.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (a)(1).

3-9-211. Permit to sell beverages — Scope — Effect on other laws.

(a) Any permit to sell alcoholic beverages for on-premises consumption shall include authority to sell beer for consumption on the same premises, and the provisions of § 3-5-307(7) and (8) shall not apply to premises covered by a permit issued under this subchapter.

(b) An on-premises consumption permit shall not authorize the selling or dispensing of alcoholic beverages by the package or bottle.

(c)(1) Any permit to sell alcoholic beverages for on-premises consumption shall also include authority to sell native and imported wine by the drink.

(2) However, nothing in this subchapter shall repeal subchapter 3 of this chapter regarding the licensing of restaurants to sell wines as authorized in those sections.

(3) It is the intent hereof that a permit issued under this subchapter for sale of alcoholic beverages for on-premises consumption shall include authority to sell native or imported wines by the drink on the licensed premises, but any restaurant not wishing to obtain a license under this subchapter may obtain a license under subchapter 3 of this chapter to sell wines as authorized therein.

(d) A permit to sell alcoholic beverages for on-premises consumption includes the authority to sell hard cider.

History. Acts 1969, No. 132, § 17; **Amendments.** The 2019 amendment A.S.A. 1947, § 48-1417; Acts 2019, No. added (d).
691, § 21.

3-9-213. Gross receipts and supplemental taxes on sale of alcoholic beverages.

(a) The sale of alcoholic beverages pursuant to this subchapter shall be subject to the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., as amended.

(b)(1) In addition, there is levied a supplemental tax of ten percent (10%) upon the gross proceeds or gross receipts from the sale of alcoholic beverages pursuant to this subchapter.

(2)(A) In addition to the tax levied under subdivision (b)(1) of this section, a supplemental tax of four percent (4%) is levied on the gross proceeds or gross receipts from the sale of alcoholic beverages under this subchapter.

(B) However, the tax levied under subdivision (b)(2)(A) of this section shall not apply to gross proceeds or gross receipts from the sale of beer or wine.

(c)(1) The supplemental tax shall be reported and paid to the Secretary of the Department of Finance and Administration in the same manner and at the same time as the gross receipts tax and shall be subject to such reasonable rules as the secretary may prescribe, including the maintenance of permanent records showing all purchases and sales of alcoholic beverages.

(2)(A) The tax levied under subdivision (b)(2) of this section shall be credited as special revenues to the University of Arkansas Medical Center Fund.

(B)(i) The funds credited under subdivision (c)(2)(A) of this section shall be used exclusively for making loan repayments for construction projects authorized by Acts 1989 (1st Ex. Sess.), No. 261, until the loan is paid in full.

(ii) After the Chancellor of the University of Arkansas for Medical Sciences certifies in writing to the Chief Fiscal Officer of the State that the loan has been repaid in full, then revenue from the tax collected under subdivision (b)(2) of this section may be used for any purpose authorized by law.

(d) The taxes herein prescribed may be passed on to the consumer and shall be in lieu of all other special taxes at the retail level.

(e) Wine shall not be defined as a mixed drink for the purposes of §§ 3-9-221 — 3-9-225 and shall not be subject to the supplemental tax of twelve percent (12%).

(f)(1) The Department of Finance and Administration shall notify the city or county of an audit for the supplemental tax on the sale of alcoholic beverages consumed on the premises if:

(A) The department audits a taxpayer;

(B) The department makes an assessment related to the audit against the taxpayer; and

(C) The taxpayer operates in a city or county that imposes a supplemental tax on the sale of alcoholic beverages consumed on the premises under § 3-9-214.

(2) The city or county may use this information to administer its supplemental tax on the sale of alcoholic beverages consumed on the premises.

(3) A city or county provided information under this subsection is subject to all of the confidentiality requirements of § 26-18-303.

History. Acts 1969, No. 132, § 8; 1983, No. 844, §§ 1, 5; A.S.A. 1947, §§ 48-1408, 48-1408n; Acts 1999, No. 910, § 1; 2003, No. 335, § 1; 2005, No. 1274, § 1; 2019, No. 315, § 100; 2019, No. 910, § 3349.

by No. 315 deleted “and regulations” following “rules” in (c)(1).

The 2019 amendment by No. 910 substituted “secretary” for “director” twice in (c)(1).

Amendments. The 2019 amendment

3-9-221. Private clubs — Exception from alcoholic beverage laws.

(a) The General Assembly recognizes that:

(1) Many individuals in this state serve mixed drinks containing alcoholic beverages to their friends and guests in the privacy of their homes and, in addition, that many individuals associated together in private nonprofit corporations established for fraternal, patriotic, recreational, political, social, or other mutual purposes as authorized by law, established not for pecuniary gain, have provided for their mutual convenience and for the preparation and serving to themselves and their guests mixed drinks prepared from alcoholic beverages owned by the members individually or in common under a so-called “locker”, “pool”, or “revolving fund” system;

(2) Many individuals travel to this state to assemble at regional meetings and conventions to associate with other individuals who are members of professional and social organizations and that:

(A) Many of the restaurants and entertainment facilities used for the meetings and conventions promote the hospitality of the host communities where the restaurants, convention, and entertainment facilities are located;

(B) Many of the host organizations plan to serve mixed drinks containing alcoholic beverages to their friends and guests at these meetings and while entertaining and dining during these conventions; and

(C) Many of the host communities have individuals who have associated together in private nonprofit corporations established for recreational, social, community hospitality, professional association, entertainment, or other mutual purposes established, not for pecuniary gain, but for their mutual convenience and to provide for the preparation and serving to themselves and their guests mixed drinks prepared from alcoholic beverages owned by the members individually or in common under a so-called locker, pool, or revolving fund system; and

(3)(A)(i) That there are a number of counties or parts of counties where the public retail sale of intoxicating liquors has not been approved by the voters.

(ii) However, within those counties or parts of counties there are significant developments of tourism facilities and large-event facilities that promote the economic development of the state.

(B) To ensure that tourism and large-event facilities as well as other associated activities are allowed to exist to promote the economic development in the state, a new hotel or large-event facility private club permit, for use in those places where the public retail sale of intoxicating liquors is not authorized, should be created.

(C) These permits are necessary so that persons visiting hotels or large-event facilities in these areas will be able to enjoy the amenities that a person might find in other states.

(D) This additional permit will enhance the experience of going to hotels or large-event facilities that may display items of historic interest, contain extensive art collections, or host musical or dramatic presentations.

(E)(i) Further, since the counties or parts of counties in which these hotels or large-event facilities will be located do not allow the open public retail sale of intoxicating liquors, the nonprofit corporations that have been established to have the hotel facilities or the large-event facilities should be allowed to offer alcoholic beverages to members of the nonprofit corporations and their guests.

(ii) These nonprofit corporations have been established for the purpose of operating a qualifying hotel or large-event facility private club or other mutual purposes, not for pecuniary gain, but for their mutual convenience and to provide for the preparation and serving to the members and their guests alcoholic beverages owned by the members individually or in common under a locker, pool, or revolving fund system.

(b)(1) In order to clarify the alcoholic beverage control laws of this state and to regulate and prohibit the sale of alcoholic beverages in violation of the provisions of this subchapter and other applicable alcoholic beverage control laws of this state, the General Assembly determines that the preparation, mixing, and serving of mixed drinks, beer, and wine for consumption only on the premises of a private club as defined in § 3-9-202(14) by the members thereof and their guests and the making of a charge for such services shall not be deemed to be a sale or be in violation of any law of this state prohibiting the manufacture, sale, barter, loan, or giving away of intoxicating liquor whenever:

(A) The alcoholic beverages, beer, and wine so consumed have been furnished or drawn from private stocks thereof belonging to such members, individually or in common under a so-called locker, pool, or revolving fund system and are replenished only at the expense of such members; and

(B) The private club has acquired a permit from the Alcoholic Beverage Control Board, in such form as the board may appropriately determine.

(2)(A) A private club may serve any alcoholic beverage furnished or drawn under the provisions of subdivision (b)(1) of this section on the golf course on which the private club is located when the private club is hosting a professional golf tournament or other charitable golf tournament sponsored by a charitable organization described in 26 U.S.C. § 501(c)(3) and the Director of the Alcoholic Beverage Control Division has been notified by the private club at least sixty (60) calendar days prior to the beginning of the event.

(B) Persons attending the event shall be deemed guests of the private club, and the club may serve the alcoholic beverages to the guests for cash.

(C) The director may promulgate rules he or she deems necessary to implement this subdivision (b)(2).

(c) In order to clarify the alcoholic beverage control laws of this state and to regulate and prohibit the sale of alcoholic beverages in violation of the provisions of this subchapter and other applicable alcoholic beverage control laws of this state, the General Assembly determines that the preparation, mixing, and serving of wine and beer for consumption only by the lodging guests on the premises of a bed and breakfast private club as defined in § 3-9-202(2) and the making of a charge for such services shall not be deemed to be a sale or to be in violation of any law of this state prohibiting the manufacture, sale, barter, loan, or giving away of intoxicating liquor whenever:

(1) The wine and beer so consumed have been furnished or drawn from private stocks belonging to an owner of the bed and breakfast private club and are replenished only at the expense of such owner;

(2) The wine and beer consumed must have been purchased in an Arkansas licensed retail alcoholic beverage store, as authorized by the director;

(3) The average annual volume of wine and beer consumed shall not exceed three gallons (3 gals.) per month per guest room; and

(4) The bed and breakfast private club has acquired a permit from the board in such form as the board may appropriately determine.

History. Acts 1969, No. 132, § 10; A.S.A. 1947, § 48-1410; Acts 1999, No. 1063, § 2; 2001, No. 584, § 1; 2003, No. 1813, § 2; 2011, No. 1194, § 1; 2019, No. 315, § 101.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (b)(2)(C).

3-9-223. Private clubs — Permit renewal fees — Taxes.

(a)(1) A permit shall be renewed on or before June 30 of each calendar year for the fiscal year beginning July 1.

(2) Any permit issued between January and July 1 of any year shall be at one-half (½) of the amount of the fee provided in § 3-9-222.

(b)(1) In addition, there is levied a supplemental tax of ten percent (10%) upon the gross proceeds or gross receipts derived by the private club from the charges to members for the preparation and serving of mixed drinks or for the cooling and serving of beer and wine, drawn

from the private stocks of the members as provided in § 3-9-221, for consumption only on the premises where served.

(2) In addition to the tax levied under subdivision (b)(1) of this section, a supplemental tax of four percent (4%) is levied on the gross proceeds or gross receipts derived by the private club from the charges to members for the preparation and serving of mixed drinks drawn from the private stocks of the members as provided in § 3-9-221 for consumption only on the premises where served.

(c)(1) The supplemental tax shall be reported and paid to the Secretary of the Department of Finance and Administration in the same manner and at the same time as the gross receipts tax under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and shall be in addition to the tax.

(2)(A) The tax levied under subdivision (b)(2) of this section shall be credited as special revenues to the University of Arkansas Medical Center Fund.

(B)(i) The funds credited under subdivision (c)(2)(A) of this section shall be used exclusively for making loan repayments for construction projects authorized by Acts 1989 (1st Ex. Sess.), No. 261, until the loan is paid in full.

(ii) After the Chancellor of the University of Arkansas for Medical Sciences certifies in writing to the Chief Fiscal Officer of the State that the loan has been repaid in full, then revenue from the tax collected under subdivision (b)(2) of this section may be used for any purpose authorized by law.

(d) The secretary shall promulgate reasonable rules for the enforcement and collection of the tax levied herein, including a requirement that each permittee maintain records showing all such charges made.

(e) The taxes herein prescribed may be passed on to the members.

(f)(1) In addition to the fee or supplemental tax as levied herein, any city or incorporated town or any county in which the permitted premises are located, if located outside the limits of a city or incorporated town, may levy an additional permit fee or supplemental tax or both additional permit fee and supplemental tax not to exceed one-half ($\frac{1}{2}$) of the amount of the fee or rate provided in this section.

(2) All fees and taxes levied hereunder by any city or county shall be used for city or county general purposes or for city or county economic development purposes.

(g) Holders of a bed and breakfast private club permit are exempt from the supplemental taxes in subsections (b) and (f) of this section.

(h)(1) The Department of Finance and Administration shall notify the city or county of an audit for the supplemental tax on the sale of alcoholic beverages consumed on the premises if:

(A) The department audits a private club;

(B) The department makes an assessment related to the audit against the private club; and

(C) The private club operates in a city or county that imposes a supplemental tax on the sale of alcoholic beverages consumed on the premises under § 3-9-223(f).

(2) The city or county may use this information to administer its supplemental tax on the sale of alcoholic beverages consumed on the premises.

(3) A city or county provided information under this subsection is subject to all of the confidentiality requirements of § 26-18-303.

History. Acts 1969, No. 132, § 10; 1975 (Extended Sess., 1976), No. 1016, § 1; 1983, No. 420, § 1; 1983, No. 844, §§ 2, 5; A.S.A. 1947, §§ 48-313.1, 48-1410, 48-1410n; reen. Acts 1987, No. 949, § 1; 1995, No. 372, § 1; 1995, No. 405, § 1; 1997, No. 546, § 1; 1999, No. 1063, § 4; 2003, No. 335, § 2; 2005, No. 1274, § 2; 2019, No. 315, § 102; 2019, No. 910, §§ 3350, 3351.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (d).

The 2019 amendment by No. 910 substituted “secretary” for “director” in (c)(1) and (d).

3-9-225. Private clubs — Rules.

The Alcoholic Beverage Control Board is authorized and directed to establish rules with respect to permits issued under the provisions of § 3-9-222 to assure compliance with the provisions hereof and to prohibit any permittee from engaging in the unlawful sale of alcoholic beverages.

History. Acts 1969, No. 132, § 10; A.S.A. 1947, § 48-1410; Acts 2019, No. 315, § 103.

deleted “and regulations” following “Rules” in the section heading; and deleted “and regulations” following “rules”.

Amendments. The 2019 amendment

3-9-229. Collection of taxes.

The Secretary of the Department of Finance and Administration may assess and collect delinquent state and local taxes from the owner or owners of the hotel or restaurant, file claims for unpaid taxes against bonds or other security required to be posted by the permittee, and enforce liens against assets held by the owner or owners. The Alcoholic Beverage Control Division may suspend or refuse to renew a permit held by a nonpartner if the hotel or restaurant owner fails to remit state taxes.

History. Acts 1997, No. 222, § 2; 2019, No. 910, § 3352.

Amendments. The 2019 amendment substituted “Secretary” for “Director”.

3-9-232. Inspection of premises and records of licensed premises and private clubs.

(a) No permit shall be issued under this subchapter unless the permittee has consented in writing that the licensed premises and its books and records shall be open at all times to all law enforcement and tax officials and officials of the Alcoholic Beverage Control Division, the Alcoholic Beverage Control Enforcement Division, and the Secretary of the Department of Finance and Administration without requirement of warrant or other legal process.

(b) No organization holding a permit under this subchapter shall market, sell, or otherwise furnish the names of its members or any other information pertaining to its members to any other public or private entity, except as provided in subsection (a) of this section.

History. Acts 1969, No. 132, § 6; A.S.A. 1947, § 48-1406; Acts 2003, No. 654, § 1; 2019, No. 910, § 3353. **Amendments.** The 2019 amendment substituted “Secretary” for “Director” in (a).

3-9-233. Closing hours.

(a) The rules of the Alcoholic Beverage Control Board and existing laws with respect to the closing hours of licensed premises under this subchapter shall be applicable to all such licensed premises in the state, except that:

(1) The governing body of a city in which hotel and restaurant licensed premises are located may fix by ordinance later closing hours for such hotel and restaurant licensed premises than are prescribed by state law or rules of the board for licensed premises generally. In that case, the closing hours for such hotel and restaurant licensed premises as provided by ordinance of the governing body of the city shall govern with respect to the licensed premises in the city; and

(2) In any county of this state having a population of not less than fifty-three thousand (53,000) and not more than fifty-eight thousand (58,000) in which hotel and restaurant licensed premises are located outside the corporate limits of any municipality, the county court of the county may fix by order of the court later closing hours for the hotel and restaurant licensed premises than are prescribed by state law or rules of the board for licensed premises generally. In that case, the closing hours for the hotel and restaurant licensed premises located in the county outside of municipal limits shall be governed by the order of the county court.

(b) However, under no circumstances may any licensed premises remain open more than two (2) hours after 12:00 midnight on Saturday night.

History. Acts 1969, No. 132, § 12; 1973, No. 387, § 1; 1975, No. 137, § 1; A.S.A. 1947, § 48-1412; Acts 2019, No. 315, § 104. **Amendments.** The 2019 amendment substituted “rules” for “regulations” throughout (a).

3-9-234. Failure to pay renewal fees or taxes.

(a) If any permittee shall fail to remit any fee levied in this subchapter for the annual renewal of a permit within the time provided in § 3-9-223, the permit shall be revoked.

(b) If any permittee shall fail to remit the supplemental tax upon gross receipts within the time provided in § 3-9-223, a penalty of twenty-five percent (25%) shall be due and payable. If such taxes plus penalty are not paid within thirty (30) days from the due date, the Director of the Alcoholic Beverage Control Division shall revoke the

permit of the permittee, and the Secretary of the Department of Finance and Administration shall seek recovery of the amount of such taxes and penalties due from the permittee.

History. Acts 1969, No. 132, § 11; A.S.A. 1947, § 48-1411; Acts 1999, No. 910, § 2; 2019, No. 910, § 3354. **Amendments.** The 2019 amendment substituted “Secretary” for “Director” in (b).

SUBCHAPTER 3 — WINE

SECTION.	SECTION.
3-9-301. Definitions.	3-9-305. License applications — Qualifications.
3-9-303. Sale by licensed cafe or restaurant authorized — Restrictions.	3-9-306. Prohibited acts.
3-9-304. Sale by restaurant located near certain cities.	

3-9-301. Definitions.

- As used in this subchapter, unless the context otherwise requires:
- (1) “Director” means the Director of the Alcoholic Beverage Control Division;
 - (2) “Guest” means a person who orders and is served a meal inside a restaurant during regular hours;
 - (3)(A) “License” means a license to sell wine in a restaurant or cafe.
 - (B) An annual fee of three hundred dollars (\$300) shall be paid for each license or renewal of a license.
 - (C) All moneys derived from the annual fees shall be deposited into the State Treasury as general revenues to the credit of the State Apportionment Fund, to be allocated and transferred to the various funds, fund accounts, and accounts participating in general revenues in the respective proportions to each as provided by law, and to be used for the respective purposes set forth in the Revenue Stabilization Law, § 19-5-101 et seq.;
 - (4) “Meal” means food commonly ordered at various hours of the day;
 - (5) “Person” means any person, firm, partnership, association, or corporation;
 - (6)(A) “Restaurant” or “cafe” means a place of business that is regularly used to serve a meal to a guest for compensation and has a suitable kitchen facility to serve an entire menu approved by the Alcoholic Beverage Control Division.
 - (B) The menu shall contain a selection of food and shall not be limited to sandwiches or salads.
 - (C) The kitchen shall:
 - (i) Have adequate refrigeration to preserve the food on the menu;
 - (ii) Be kept in a sanitary condition; and
 - (iii) Comply with the rules of the Department of Health.
 - (D)(i) The Alcoholic Beverage Control Board is authorized and directed to establish appropriate rules defining “established eating places” to the extent that licenses granted under the provisions of this

subchapter shall be issued only to those business establishments whose principal business is serving food for consumption on the premises.

(ii) However, a drive-in shall not be classified as an established eating place; and

(7) “Wine” or “wines” means any port wine, sherry wine, vermouth wine, or other wines, the alcoholic content of which does not exceed twenty-one percent (21%), regardless of whether the wines are manufactured within or without the State of Arkansas.

History. Acts 1965, No. 120, § 1; 1971, No. 441, § 2; 1971, No. 585, § 12; A.S.A. 1947, § 48-626; Acts 2005, No. 1247, § 1; 2009, No. 294, § 24; 2013, No. 1100, §§ 3, 4; 2019, No. 315, §§ 105, 106.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (6)(C)(iii); and deleted “and regulations” following “rules” in (6)(D)(i).

3-9-303. Sale by licensed cafe or restaurant authorized — Restrictions.

(a) It shall be lawful for a cafe or restaurant, as defined in § 3-9-301, in this state to sell wines, as defined in § 3-9-301, or hard cider, for consumption with food served in the cafe or restaurant upon obtaining a license, and paying the fee therefor, from the Director of the Alcoholic Beverage Control Division as provided in this subchapter.

(b) However, it shall be unlawful for the director to issue a license to a cafe or restaurant for sales of wine or hard cider served with food in a city, county, township, or other area in this state wherein the sale and possession of wines or hard cider is unlawful.

(c) All licenses shall be renewed annually in the manner provided by law.

(d) The holder of a license to sell wine or hard cider in a restaurant or cafe, as defined in § 3-9-301, which is located in any city having a population of less than six hundred (600) persons and in a county having a population of less than seventeen thousand five hundred (17,500) persons according to the 1990 Federal Decennial Census and within three (3) miles of a river which serves as a common boundary between that county and another state shall be entitled, in addition to other privileges inherent under the permit, to sell wine or hard cider in unopened containers from such restaurant for off-premises consumption.

History. Acts 1965, No. 120, § 2; 1971, No. 441, § 3; 1979, No. 141, § 1; 1979, No. 545, § 1; A.S.A. 1947, § 48-627; Acts 1989, No. 299, § 1; 1999, No. 1064, § 1; 2019, No. 691, § 22.

Amendments. The 2019 amendment inserted “or hard cider” in (a), twice in (b), and twice in (d); and made stylistic changes.

3-9-304. Sale by restaurant located near certain cities.

A restaurant, as defined in § 3-9-301, that is located within two (2) miles of a city having a population of at least fifty-five thousand

(55,000) but not more than sixty thousand (60,000) persons according to the 1970 Federal Decennial Census, and in an area in which the sale of alcoholic beverages is lawful, shall be entitled to make application for and obtain a permit to serve wine or hard cider, or both, with food in such restaurants in the manner prescribed in this subchapter.

History. Acts 1979, No. 687, § 1; A.S.A. 1947, § 48-627.1; Acts 2019, No. 691, § 23.

Amendments. The 2019 amendment inserted “or hard cider, or both”; and made stylistic changes.

3-9-305. License applications — Qualifications.

(a) A license shall not be issued to a person authorizing the sale of wine or hard cider, or both, at retail for consumption on the premises with food served in any cafe or restaurant unless the person files with the Director of the Alcoholic Beverage Control Division a verified application therefor, accompanied by the fee required by law, and shall state in the application that he or she possesses the following qualifications:

(1) The applicant is a person of good moral character, a citizen or resident alien of the United States, and a resident of the county in which the permit will be operated, or resides within thirty-five (35) miles of the address of the premises described in the application;

(2) The applicant has not been convicted of a felony or has not been convicted within five (5) years of the date of his or her application of any violation of the laws of this state or any other state relating to alcoholic beverages;

(3) The applicant has not had revoked within five (5) years next preceding his or her application any license issued to him or her pursuant to the laws of this state or any other state to sell alcoholic liquor of any kind;

(4) The applicant shall be the owner of the premises for which the license is sought or the holder of an existing lease, buy-sell agreement, offer and acceptance, or option to lease thereon;

(5) If the applicant is a copartner, all members of the copartnership must be qualified to obtain a license;

(6)(A)(i) If the applicant is a corporation, the president and directors thereof, any stockholder owning more than five percent (5%) of the stock of such corporation who is not exempted under subdivision

(6)(A)(ii) of this section, and the person or persons who shall conduct and manage the licensed premises for the corporation shall possess all the qualifications required herein for an individual license.

(ii) An applicant is not required to state the identity of its shareholders who are not the president or the director when the corporation:

(a) Is publicly traded on a nationally recognized stock exchange; or

(b) Holds at least ten (10) permits issued by the Alcoholic Beverage Control Division for the sale of alcoholic beverages.

(B) The requirement as to residence in the United States or citizenship of the United States shall not apply to officers, directors,

and stockholders of the corporation, but the requirement shall apply to any officer, director, or stockholder who is also the manager of the licensed premises in any capacity in the conduct or operation of the licensed premises; and

(7) The cafe or restaurant making application for the license is primarily engaged in the business of serving foods to the public prepared for consumption on the premises and must be an established eating place within the rules promulgated by the Alcoholic Beverage Control Board as provided in § 3-9-301(6).

(b) Any misstatement or concealment of fact in the application shall be grounds for the revocation of any license issued pursuant to the application.

History. Acts 1965, No. 120, § 3; A.S.A. 1947, § 48-628; Acts 1989, No. 295, § 2; 1991, No. 606, § 8; 1995, No. 536, § 3; 1999, No. 948, § 2; 2013, No. 325, § 4; 2019, No. 315, § 107; 2019, No. 691, § 24.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (a)(7).

The 2019 amendment by No. 691 inserted “or hard cider, or both” and substituted “files” for “shall file” in the introductory language of (a); and made stylistic changes.

3-9-306. Prohibited acts.

A holder of a license authorizing the sale of wine or hard cider, or both, for consumption with food served on the premises where sold, or a servant, agent, or employee of the licensee, shall not do any of the following upon the licensed premises:

- (1) Knowingly sell wine or hard cider to a minor;
- (2) Knowingly sell wine or hard cider to a person while the person is in an intoxicated condition;
- (3) Sell wine or hard cider upon the licensed premises or permit wine or hard cider to be consumed thereon on any day or at any time when the sale or consumption is prohibited by law; or
- (4) Permit on the licensed premises any disorderly conduct, breach of peace, or any lewd, immoral, or improper entertainment, conduct, or practices.

History. Acts 1965, No. 120, § 4; A.S.A. 1947, § 48-629; Acts 2019, No. 691, § 25.

Amendments. The 2019 amendment inserted “or hard cider” throughout the

section; inserted “or both” in the introductory language; and made stylistic changes.

SUBCHAPTER 6 — WINE AND BEER ON-PREMISES LICENSE

SECTION.

- 3-9-602. Sale by licensed facility authorized — Restrictions.
- 3-9-603. License applications — Qualifications.

SECTION.

- 3-9-604. Prohibited acts.
- 3-9-605. Penalties.

3-9-602. Sale by licensed facility authorized — Restrictions.

(a) It is lawful for a facility in this state to sell wines or hard cider for consumption on the premises upon obtaining a license from the Director of the Alcoholic Beverage Control Division and paying the fee therefor, as provided in this subchapter.

(b) However, it shall be unlawful for the director to issue a license to a facility for sales of wine or hard cider, or both, for consumption on the premises in a city, county, township, or other area in this state wherein the sale and possession of wines or hard cider is unlawful.

(c) All licenses shall be renewed annually in the manner as is provided by law.

History. Acts 1999, No. 856, § 3; 2019, inserted “or hard cider” in (a) and twice in No. 691, § 26. (b); inserted “or both” in (b); and made

Amendments. The 2019 amendment stylistic changes.

3-9-603. License applications — Qualifications.

(a) A license shall not be issued to a person authorizing the sale of wine or hard cider, or both, at retail for consumption on the premises unless the person files with the Director of the Alcoholic Beverage Control Division a verified application therefor accompanied by the fee required by law and states in the application that he or she possesses the following qualifications:

(1) The applicant is a person of good moral character, a citizen or resident alien of the United States, and a resident of the county in which the permit will be operated or resides within thirty-five (35) miles of the address of the premises described in the application;

(2) The applicant must be a resident of the State of Arkansas on the date of the application and maintain such residency within the state as a continuing qualification to hold the permit issued by the Director of the Alcoholic Beverage Control Division;

(3) The applicant has never been convicted of a felony or has not been convicted within five (5) years of the date of his or her application of any violation of the laws of this state or any other state relating to alcoholic beverages;

(4) The applicant has not had revoked within five (5) years immediately preceding his or her application any license issued to him or her pursuant to the laws of this state or any other state to sell alcoholic liquor of any kind;

(5) The applicant must be the owner of the premises for which the license is sought or the holder of an existing lease, buy-sell agreement, offer and acceptance, or option to lease thereon;

(6) If the applicant is a copartner, all members of the copartnership must be qualified to obtain a license; and

(7)(A)(i) If the applicant is a corporation, the president and directors thereof, any stockholder owning more than five percent (5%) of the stock of such corporation who is not exempted under subdivision (a)(7)(A)(ii) of this section, and the person or persons who shall

conduct and manage the licensed premises for the corporation shall possess all the qualifications required herein for an individual license.

(ii) An applicant is not required to state the identity of its shareholders who are not the president or the director when a corporation:

- (a) Is publicly traded on a nationally recognized stock exchange; or
- (b) Holds at least ten (10) permits issued by the Alcoholic Beverage Control Division for the sale of alcoholic beverages.

(B) The requirement as to residence shall not apply to officers, directors, and stockholders of the corporation, but the requirement shall apply to any officer, director, or stockholder who is also the manager of the licensed premises in any capacity in the conduct or operation of the licensed premises.

(b) Any misstatement or concealment of fact in the application shall be grounds for the revocation of any license issued pursuant to the application.

History. Acts 1999, No. 856, § 4; 2013, No. 325, § 5; 2019, No. 691, § 27.

Amendments. The 2019 amendment inserted “or hard cider, or both” in the introductory language of (a); and made stylistic changes.

3-9-604. Prohibited acts.

A holder of a license authorizing the sale of wine or hard cider, or both, for consumption on the premises where sold or a servant, agent, or employee of the licensee shall not do any of the following upon the licensed premises:

- (1) Knowingly sell wine or hard cider to a minor;
- (2) Knowingly sell wine or hard cider to a person while the person is in an intoxicated condition;
- (3) Sell wine or hard cider upon the licensed premises or permit wine or hard cider to be consumed thereon on any day or at any time when the sale or consumption is prohibited by law; or
- (4) Permit on the licensed premises any disorderly conduct, breach of the peace, or any lewd, immoral, or improper entertainment, conduct, or practices.

History. Acts 1999, No. 856, § 5; 2019, No. 691, § 28.

Amendments. The 2019 amendment inserted “or hard cider” throughout the section; inserted “or both” in the introductory language; and made stylistic changes.

3-9-605. Penalties.

If a facility licensed under this subchapter to sell wine or hard cider, or both, for consumption on the premises violates this subchapter or the other laws of this state regarding the sale of wine or hard cider at retail, the owner or operator of the facility is guilty of a Class B misdemeanor.

History. Acts 1999, No. 856, § 2; 2005, No. 1994, § 377; 2019, No. 691, § 29. inserted “or hard cider” twice; inserted “or both”; and made stylistic changes.

Amendments. The 2019 amendment

